

43:21-3 et seq.

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:21-3 et seq (Unemployment Compensation - amendments)

LAWS OF: 1984

CHAPTER: 24

Bill No: S1322

Sponsor(s): Russo

Date Introduced: February 23, 1984

Committee: Assembly: //////////////

Senate: Labor, Industry and Professions

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Following statements are attached if available:

Sponsor statement: Yes

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Senate Yes

Fiscal Note: No

Veto Message: No

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Following were printed:

Reports: ~~No~~ Yes

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974.90 New Jersey. Governor's Commission on Unemployment
U55 Insurance.
1984 Report. Trenton, January 25, 1984.

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SENATE, No. 1322

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Senators RUSSO, DiFRANCESCO, ORECHIO McMANIMON, GAGLIANO, JACKMAN, HAGEDORN, BASSANO, WEISS, SAXTON, HIRKALA, FELDMAN, BROWN, DUMONT, LYNCH, CARDINALE, GARIBALDI, CONNORS, DORSEY, CAUFIELD, LESNIAK, DALTON, PALLONE, CONTILLO, HURLEY, EWING and BUBBA

Referred to Committee on Labor, Industry and Professions

AN ACT concerning unemployment compensation, establishing the Unemployment Compensation Interest Repayment Fund in the Department of Labor for certain purposes, amending various sections of statutory law, supplementing chapter 21 of Title 43 of the Revised Statutes and repealing section 1 of P. L. 1940, c. 193.

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

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

2 43:21-3. (a) Payment of benefits. All benefits shall be promptly
3 paid from the fund **[through local employment offices]** in accor-
4 dance with such regulations as may be prescribed hereunder.

5 (b) Weekly benefits for unemployment.

6 With respect to an individual's benefit year commencing on or
7 after July 1, 1961, such individual, if eligible and unemployed (as
8 defined in subsection (m) of R. S. 43:21-19), shall be paid an
9 amount (except as to final payment) equal to his weekly benefit
10 rate less any remuneration paid or payable to him for such week
11 in excess of 20% of his weekly benefit rate (fractional part of a
12 dollar omitted) or \$5.00, whichever is the greater; provided that

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:

***—Senate committee amendments adopted February 27, 1984.**

13 such amount shall be computed to the next **[higher]** *lower* multiple
 14 of \$1.00 if not already a multiple thereof.

15 (c) Weekly benefit rate.

16 (1) With respect to an individual whose benefit year commences
 17 **[in any calendar year]** after **[December 31, 1967]** *September 30,*
 18 *1984,* his weekly benefit rate under each determination shall be
 19 **[two-thirds]** *60%* of his average weekly wage, subject to a maxi-
 20 mum of **[50%]** *56 2/3%* of the Statewide average weekly remunera-
 21 tion paid to workers by employers subject to this chapter (R. S.
 22 43:21-1 et seq.), as determined and promulgated by the Commis-
 23 sioner of Labor **[and Industry, and to a minimum of \$10.00]**;
 24 provided, however, that such individual's weekly benefit rate shall
 25 be computed to the next **[higher]** *lower* multiple of \$1.00 if not
 26 already a multiple thereof.

27 (2) *Dependency Benefits.*

28 (A) *With respect to an individual whose benefit year commences*
 29 *after September 30, 1984, the individual's weekly benefit rate as*
 30 *determined in paragraph (1) of this subsection (c) will be increased*
 31 *by 7% for the first dependent and 4% each for the next two de-*
 32 *pendents (up to a maximum of three dependents) computed to the*
 33 *next lower multiple of \$1.00 if not already a multiple thereof,*
 34 *except that the maximum weekly benefit rate payable for an indi-*
 35 *vidual claiming dependency benefits shall not exceed the maximum*
 36 *amount determined under paragraph (1) of this subsection (c).*

37 (B) *For the purposes of this paragraph (2), a dependent is*
 38 *defined as an individual's unemployed spouse or an unemployed*
 39 *unmarried child (including a stepchild or a legally adopted child)*
 40 *under the age of 19 or an unemployed unmarried child who is at-*
 41 *tending an educational institution as defined in subsection (y) of*
 42 *R. S. 43:21-19 on a full-time basis and is under the age of 22. If*
 43 *an individual's spouse is employed during the week the individual*
 44 *files an initial claim for benefits, this paragraph (2) shall not apply.*
 45 *If both spouses establish a claim for benefits in accordance with*
 46 *the provisions of this chapter (R. S. 43:21-1 et seq.) only one shall*
 47 *be entitled to dependency benefits as provided in this paragraph (2).*

48 (C) *Any determination establishing dependency benefits under*
 49 *this paragraph (2) shall remain fixed for the duration of the indi-*
 50 *vidual's benefit year and shall not be increased or decreased unless*
 51 *it is determined by the division that the individual wrongfully*
 52 *claimed dependency benefits as a result of false or fraudulent rep-*
 53 *resentation.*

54 (D) *Notwithstanding the provisions of any other law, the divi-*
 55 *sion shall use every available administrative means to insure that*

56 *dependency benefits are paid only to individuals who meet the re-*
57 *quirements of this paragraph (2). These administrative actions*
58 *may include, but shall not be limited to the following:*

59 (i) *All married individuals claiming dependents under this para-*
60 *graph (2) shall be required to provide the social security number*
61 *of the individual's spouse. If the individual indicates that the*
62 *spouse is unemployed, the division shall match the social security*
63 *number of the spouse against available wage records to determine*
64 *whether earnings were reported on the last quarterly earnings*
65 *report filed by employers under R. S. 43:21-14 of this chapter. If*
66 *earnings were reported, the division shall contact in writing the*
67 *last employer to determine whether the spouse is currently em-*
68 *ployed.*

69 (ii) *Where a child is claimed as a dependent by an individual*
70 *under this paragraph (2), the individual shall be required to pro-*
71 *vide to the division the most recent federal income tax return filed*
72 *by the individual to assist the division in verifying the claim.*

73 (3) For the purposes of this [paragraph] subsection (c) the
74 "Statewide average weekly remuneration paid to workers by em-
75 ployers" shall be computed and determined by the Commissioner
76 of Labor [and Industry] on or before September 1 of each year on
77 the basis of one-fifty-second of the total remuneration reported for
78 the preceding calendar year by employers subject to this chapter,
79 divided by the average of the number of workers reported by such
80 employers, and shall be effective as to benefit determinations in the
81 calendar year following such computation and determination.

82 (d) Maximum total benefits.

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

93 With respect to an individual to whom benefits shall be payable
94 for benefit years commencing on or after January 1, 1968 as pro-
95 vided in this section and prior to January 1, 1975, such individual
96 shall be entitled to receive, under each successive benefit deter-
97 mination relating to each of his base year employers, a total amount
98 of benefits equal to one-third of his total wages in his base year

99 or three-quarters of his base weeks from the employer in question
100 multiplied by his weekly benefit rate, whichever is the higher; but
101 the amount of benefits thus resulting under any such determina-
102 tion made with respect to an employer shall be adjusted to the
103 next higher multiple of \$1.00 if not already a multiple thereof.】

104 (A) With respect to an individual to whom benefits shall be pay-
105 able for benefit years commencing on or after January 1, 1975 and
106 prior to July 1, 1986, as provided in this section, such individual
107 shall be entitled to receive, under each successive benefit determi-
108 nation relating to each of his base year employers, a total amount
109 of benefits equal to three-quarters of his base weeks from the em-
110 ployer in question multiplied by his weekly benefit rate; but the
111 amount of benefits thus resulting under any such determination
112 made with respect to any employer, shall be adjusted to the next
113 [higher] lower multiple of \$1.00 if not already a multiple thereof.

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

122 (ii) *Except that benefits paid to an individual for benefit years*
123 *commencing on or after July 1, 1986 shall be charged against the*
124 *accounts of the individual's base year employers in the following*
125 *manner. Each week of benefits paid to an eligible individual shall*
126 *be charged against each base year employer's account in the same*
127 *proportion that the wages paid by each employer to the individual*
128 *during the base year bear to the wages paid by all employers to*
129 *that individual during the base year.*

130 (iii) *Wages earned during a base year which had previously*
131 *been used to establish a benefit year commencing prior to July 1,*
132 *1986 may also be used to establish benefit years commencing on or*
133 *after July 1, 1986 but prior to October 1, 1987. No employer's ac-*
134 *count shall be charged for any benefits payable based on base year*
135 *wages which may be used to establish entitlement under the pro-*
136 *visions of this subparagraph (iii).*

137 (2) No such individual shall be entitled to receive benefits under
138 this chapter (R. S. 43:21-1 et seq.) in excess of 26 times his weekly
139 benefit rate in any benefit year under either of subsections (c)
140 and (f) of section 43:21-4 of this chapter (R. S. 43:21-1 et seq.).
141 In the event that any individual qualifies for benefits under both

142 of said subsections during any benefit year, the maximum total
 143 amount of benefits payable under said subsections combined to
 144 such individual during the benefit year shall be one-and-one-half
 145 times the maximum amount of benefits payable under one of said
 146 subsections.

147 (3) [The maximum total benefits of any individual shall be
 148 reduced by an amount equal to 17 times his weekly benefit rate upon
 149 the discovery by the division that such individual illegally received
 150 any sum as benefits contrary to the provisions of this chapter as the
 151 result of any false or fraudulent representation; provided, how-
 152 ever, that such reduction shall apply only to a benefit year in
 153 existence at the time of the discovery and to a benefit year estab-
 154 lished within one year from the time of such discovery.] (*Deleted*
 155 *by amendment, P. L., c. . . .*)

1 2. 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 [registered for work] filed a claim at[,]
 6 an unemployment insurance claims office and thereafter [con-
 7 tinued] continues to report at, an employment Service office or
 8 unemployment insurance claims office as directed by the division in
 9 accordance with such regulations as the division may prescribe,
 10 except that the division may, by regulation, waive or alter either or
 11 both of the requirements of this subsection as to individuals
 12 attached to regular jobs, and as to such other types of cases or
 13 situations with respect to which the division finds that compliance
 14 with such requirements would be oppressive, or would be incon-
 15 sistent with the purpose of this act; provided, that no such regula-
 16 tion shall conflict with subsection (a) of R. S. 43:21-3.

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

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

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

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

30 collective action of a collective bargaining agent or other action
31 beyond the individual's control.

32-91 (4) Subject to such limitations and conditions as the division
92 may prescribe, an individual, who is otherwise eligible, shall not be
93 deemed unavailable for work or ineligible because the individual
94 is attending a training program approved for the individual by
95 the division to enhance the individual's employment opportunities
96 or because the individual failed or refused to accept work while
97 attending such program.

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

102 (d) The individual has been totally or partially unemployed
103 for a waiting period of one week in the benefit year which includes
104 that week. When benefits become payable with respect to the third
105 consecutive week next following the waiting period, the individual
106 shall be eligible to receive benefits as appropriate with respect to
107 the waiting period. No week shall be counted as a week of unem-
108 ployment for the purposes of this subsection:

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

113-117 (2) If it has constituted a waiting period week under the tempo-
118 rary disability benefits law;

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

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

123 (e) With respect to a base year as defined in subsection (c) of
124 R. S. 43:21-19 the individual has established at least 20 base weeks
125 as defined in subsection (t) of R. S. 43:21-19, or, **[***in the alterna-*
126 *tive,***]** *in those instances in which the individual has not established*
127 *20 base weeks, the individual has earned \$2,200.00 for benefit years*
128 *commencing prior to October 1, 1984; and for benefit years com-*
129 *mencing on or after October 1, 1984, the individual has earned*
130 *12 times the Statewide average weekly remuneration paid to*
131 *workers as determined under R. S. 43:21-3(c) raised to the next*
132 *higher multiple of \$100.00 if not already a multiple thereof or*
133 *more in the individual's base year.*

134 (f) (1) The individual has suffered any accident or sickness not
135 compensable under the Workers' Compensation Law (Title 34 of

136 the Revised Statutes) and resulting in the individual's total dis-
 137 ability to perform any work for remuneration, and would be eligi-
 138 ble to receive benefits under this chapter (R. S. 43:21-1 et seq.)
 139 (without regard to the maximum amount of benefits payable during
 140 any benefit year) except for the inability to work and has furnished
 141 notice and proof of claim to the division, in accordance with its
 142 rules and regulations, and payment is not precluded by the pro-
 143 visions of R. S. 43:21-3 (d); provided, however, that benefits paid
 144 under this subsection (f) shall be computed on the basis of only
 145 those base year wages earned by the claimant as a "covered indi-
 146 vidual" as defined in R. S. 43:21-27 (b); provided further, that no
 147 benefits shall be payable under this subsection to any individual:

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

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

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

156 (D) For any week with respect to which or a part of which
 157 the individual has received or is seeking benefits under any
 158 unemployment compensation or disability benefit law of any
 159 other state or of the United States; provided, that if the appro-
 160 priate agency of such other state or of the United States finally
 161 determines that the individual is not entitled to such benefits,
 162 this disqualification shall not apply;

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

166 (F) For any period of disability commencing while such
 167 individual is a "covered individual" as defined in subsection
 168 3 (b) of the temporary disability benefits law (P. L. 1948,
 169 c. 110).

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

175 (g) Benefits based on service in employment defined in sub-
 176 paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable
 177 in the same amount and on the terms and subject to the same
 178 conditions as benefits payable on the basis of other service subject

179 to the Unemployment Compensation Law; except that notwith-
180 standing any other provisions of the Unemployment Compensation
181 Law:

182 (1) With respect to service performed after December 31, 1977,
183 in an instructional, research, or principal administrative capacity
184 for an educational institution, benefits shall not be paid based on
185 such services for any week of unemployment commencing during
186 the period between two successive academic years, or during a
187 similar period between two regular terms, whether or not succes-
188 sive, or during a period of paid sabbatical leave provided for in the
189 individual's contract, to any individual if such individual performs
190 such services in the first of such academic years (or terms) and if
191 there is a contract or a reasonable assurance that such individual
192 will perform services in any such capacity for any educational
193 institution in the second of such academic years or terms;

194 (2) With respect to weeks of unemployment beginning after
195 September 3, 1982, on the basis of service performed in any other
196 capacity for an educational institution benefits shall not be paid on
197 the basis of such services to any individual for any week which
198 commences during a period between two successive academic years
199 or terms if such individual performs such services in the first of
200 such academic years or terms and there is a reasonable assurance
201 that such individual will perform such services in the second of
202 such academic years or terms, except that if benefits are denied
203 to any individual under this paragraph (2) and the individual was
204 not offered an opportunity to perform these services for the edu-
205 cational institution for the second of any academic years or terms,
206 the individual shall be entitled to a retroactive payment of benefits
207 for each week for which the individual filed a timely claim for
208 benefits and for which benefits were denied solely by reasons of
209 this clause;

210 (3) With respect to those services described in paragraph (1)
211 and (2) above, benefits shall not be paid on the basis of such ser-
212 vices to any individual for any week which commences during an
213 established and customary vacation period or holiday recess if such
214 individual performs such services in the period immediately before
215 such vacation period or holiday recess, and there is a reasonable
216 assurance that such individual will perform such services in the
217 period immediately following such period or holiday recess.

218 (4) With respect to any services described in paragraphs (1)
219 and (2) above, benefits shall not be paid as specified in paragraphs
220 (1), (2), and (3) above to any individual who performed those
221 services in an educational institution while in the employ of an

222 educational service agency, and for this purpose the term “educa-
223 tional service agency” means a governmental agency or govern-
224 mental entity which is established and operated exclusively for the
225 purpose of providing those services to one or more educational
226 institutions.

227 (h) Benefits shall not be paid to any individual on the basis of
228 any services, substantially all of which consist of participating in
229 sports or athletic events or training or preparing to so participate,
230 for any week which commences during the period between two
231 successive sport seasons (or similar periods) if such individual
232 performed such services in the first of such seasons (or similar
233 periods) and there is a reasonable assurance that such individual
234 will perform such services in the later of such seasons (or similar
235 periods).

236 (i) (1) Benefits shall not be paid on the basis of services per-
237 formed by an alien unless such alien is an individual who was
238 lawfully admitted for permanent residence at the time the services
239 were performed and was lawfully present for purposes of perform-
240 ing the services or otherwise was permanently residing in the
241 United States under color of law at the time the services were
242 performed (including an alien who is lawfully present in the
243 United States as a result of the application of the provisions of
244 section 203 (a) (7) or section 212 (d) (5) of the Immigration and
245 Nationality Act); provided, that any modifications of the provi-
246 sions of section 3304 (a) (14) of the Federal Unemployment Tax
247 Act as provided by Public Law 94-566 which specify other condi-
248 tions or other effective dates than stated herein for the denial of
249 benefits based on services performed by aliens and which modifica-
250 tions are required to be implemented under State law as a condition
251 for full tax credit against the tax imposed by the Federal Unem-
252 ployment Tax Act, shall be deemed applicable under the provisions
253 of this section.

254 (2) Any data or information required of individuals applying
255 for benefits to determine whether benefits are not payable to them
256 because of their alien status shall be uniformly required from all
257 applicants for benefits.

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

262 (j) Notwithstanding any other provision of this chapter, the
263 director may, to the extent that it may be deemed efficient and
264 economical, provide for consolidated administration by one or

265 more representatives or deputies of claims made pursuant to sub-
 266 section (f) of this section with those made pursuant to Article III
 267 (State plan) of the Temporary Disability Benefits Law.

1 3. R. S. 43:21-5 is amended to read as follows:

2 43:21-5. An individual shall be disqualified for benefits:

3 (a) For the week in which the individual has left work volun-
 4 tarily without good cause attributable to such work, and for each
 5 week thereafter until the individual *becomes reemployed and works*
 6 *four weeks in employment which may include employment for the*
 7 *federal government and has earned in employment* [(which may
 8 be with an employing unit having in employment one or more indi-
 9 viduals)] at least [four] *six* times the individual's weekly benefit
 10 rate, as determined in each case.

11 (b) For the week in which the individual has been suspended or
 12 discharged for misconduct connected with *the* work, and for the
 13 five weeks which immediately follow that week (in addition to the
 14 waiting period), as determined in each case. In the event *the*
 15 discharge should be rescinded by the employer voluntarily or as a
 16 result of mediation or arbitration this subsection (b) shall not
 17 apply, provided, however, an individual who is restored to em-
 18 ployment with back pay shall return any benefits received under
 19 this chapter for any week of unemployment for which the individual
 20 is subsequently compensated by the employer.

21 *If the discharge was for gross misconduct connected with the*
 22 *work because of the commission of an act punishable as a crime of*
 23 *the first, second, third or fourth degree under the "New Jersey*
 24 *Code of Criminal Justice," N. J. S. 2C:1-1 et seq., the individual*
 25 *shall be disqualified in accordance with the disqualification pre-*
 26 *scribed in subsection (a) of this section and no benefit rights shall*
 27 *accrue to any individual based upon wages from that employer for*
 28 *services rendered prior to the day upon which the individual was*
 29 *discharged.*

30 *The director shall insure that any appeal of a determination*
 31 *holding the individual disqualified for gross misconduct in connec-*
 32 *tion with the work shall be expeditiously processed by the appeal*
 33 *tribunal.*

34 (c) If it is found that the individual has failed, without good
 35 cause, either to apply for available, suitable work when so directed
 36 by the employment office or the director or to accept suitable work
 37 when it is offered, or to return to the individual's customary self-
 38 employment (if any) when so directed by the director. The dis-
 39 qualification shall continue for the week in which the failure
 40 occurred and for the three weeks which immediately follow that
 41 week (in addition to the waiting period), as determined:

42 (1) In determining whether or not any work is suitable for
43 an individual, consideration shall be given to the degree of risk
44 involved to health, safety and morals, the individual's physical
45 fitness and prior training, experience and prior earnings, the
46 individual's length of unemployment and prospects for secur-
47 ing local work in the individual's customary occupation, and
48 the distance of the available work from the individual's resi-
49 dence.

50 (2) Notwithstanding any other provisions of this chapter,
51 no work shall be deemed suitable and benefits shall not be
52 denied under this chapter to any otherwise eligible individual
53 for refusing to accept new work under any of the following
54 conditions: (a) if the position offered is vacant due directly to
55 a strike, lockout, or other labor dispute; (b) if the remunera-
56 tion, hours, or other conditions of the work offered are sub-
57 stantially less favorable to the individual than those prevailing
58 for similar work in the locality; (c) if as a condition of being
59 employed the individual would be required to join a company
60 union or to resign from or refrain from joining any bona fide
61 labor organization

62 (d) If it is found that this unemployment is due to a stoppage of
63 work which exists because of a labor dispute at the factory,
64 establishment or other premises at which the individual is or was
65 last employed. No disqualification under this subsection shall
66 apply if it is shown that:

67 (1) The individual is not participating in or financing or
68 directly interested in the labor dispute which caused the
69 stoppage of work; and

70 (2) The individual does not belong to a grade or class of
71 workers of which, immediately before the commencement of
72 the stoppage, there were members employed at the premises at
73 which the stoppage occurs, any of whom are participating in
74 or financing or directly interested in the dispute; provided,
75 that if in any case in which (1) or (2) above applies separate
76 branches of work which are commonly conducted as separate
77 businesses in separate premises are conducted in separate
78 departments of the same premises, each department shall for
79 the purpose of this subsection, be deemed to be a separate
80 factory, establishment, or other premises.

81 (e) For any week with respect to which the individual is receiv-
82 ing or has received remuneration in lieu of notice.

83 (f) For any week with respect to which or a part of which the
84 individual has received or is seeking unemployment benefits under

85 an unemployment compensation law of any other state or of the
 86 United States; provided, that if the appropriate agency of the
 87 other state or of the United States finally determines that the
 88 individual is not entitled to unemployment benefits, this disquali-
 89 fication shall not apply.

90 (g) (1) For a period of **[17 weeks]** *one year* from the date of
 91 the discovery by the division of the illegal receipt *or attempted*
 92 *receipt* of benefits contrary to the provisions of this chapter as the
 93 result of any false or fraudulent representation **[and the indi-**
 94 **vidual's maximum total benefits shall be reduced by an amount**
 95 **equal to 17 times the individual's weekly benefit rate in the benefit**
 96 **year in existence at the time of the discovery and in a benefit year**
 97 **established within one year thereafter, but the maximum reduction**
 98 **shall not exceed 17 times the weekly benefit rate]**; provided, that
 99 any disqualification may be appealed in the same manner as any
 100 other disqualification imposed hereunder; and, provided further,
 101 that a conviction in the courts of this State arising out of the
 102 illegal receipt *or attempted receipt* of these benefits in any pro-
 103 ceeding instituted against the individual under the provisions of
 104 this chapter or any other law of this State, shall be conclusive upon
 105 the appeals tribunal and the board of review.

106 (2) A disqualification under this subsection shall not preclude the
 107 prosecution of any civil, criminal or administrative action or pro-
 108 ceeding to enforce other provisions of this chapter for the assess-
 109 ment and collection of penalties or the refund of any amounts
 110 collected as benefits under the provisions of R. S. 43:21-16, or to
 111 enforce any other law where an individual obtains or attempts to
 112 obtain by theft or robbery or false statements or representations
 113 any money from any fund created or established under this chapter
 114 or any negotiable or nonnegotiable instrument for the payment of
 115 money from these funds, or to recover money erroneously or
 116 illegally obtained by an individual from any fund created or
 117 established under this chapter.

118 (h) (1) Notwithstanding any other provisions of this chapter
 119 (R. S. 43:21-1 et seq.), no otherwise eligible individual shall be
 120 denied benefits for any week because the individual is in training
 121 approved under Section 236 (a) (1) of the Trade Act of 1974, P. L.
 122 93-618, 19 U. S. C. 2296, nor shall the individual be denied benefits
 123 by reason of leaving work to enter this training, provided the work
 124 left is not suitable employment, or because of the application to
 125 any **[such]** week in training of provisions in this chapter (R. S.
 126 43:21-1 et seq.) or any applicable federal unemployment compen-
 127 sation law, relating to availability for work, active search for
 128 work, or refusal to accept work.

129 (2) For purposes of this subsection (h) the term "suitable"
 130 employment means with respect to an individual, work of a sub-
 131 stantially equal or higher skill level than the individual's past
 132 adversely affected employment (as defined for purposes of the
 133 Trade Act of 1974, P. L. 93-618, 19 U. S. C. 2102 et seq.), and wages
 134 for this work at not less than 80% of the individual's average
 135 weekly wage as determined for the purposes of the Trade Act of
 136 1974.

137 (i) For benefit years commencing after June 30, 1984, for any
 138 week in which the individual is a student in full attendance at, or
 139 on vacation from, an educational institution as defined in subsection
 140 (y) of R. S. 43:21-19; except that this subsection shall not apply
 141 to any individual attending a training program approved by the
 142 division to enhance the individual's employment opportunities as
 143 defined under subsection (c) of R. S. 43:21-4; nor shall this sub-
 144 section apply to any individual who during the individual's base
 145 year earned sufficient wages, as defined under subsection (e) of R. S.
 146 43:21-4 while attending an educational institution during periods
 147 other than established and customary vacation periods or holiday
 148 recesses at the educational institution to establish a claim for bene-
 149 fits. For purposes of this subsection, an individual shall be treated
 150 as a full-time student for any period:

151 (1) During which the individual is enrolled as a full-time student
 152 at an educational institution, or

153 (2) Which is between academic years or terms if the individual
 154 was enrolled as a full-time student at an educational institution for
 155 the immediately preceding academic year or term.

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

2 43:21-6. Claim for benefits.

3 (a) Filing. Claims for benefits shall be made in accordance
 4 with such regulations as the Director of the Division of Unemploy-
 5 ment and Temporary Disability Insurance of the Department of
 6 Labor [and Industry] of the State of New Jersey may approve.
 7 Each employer shall post and maintain on his premises printed
 8 notices of his subject status, of such design, in such numbers and
 9 at such place as the director of the division may determine to be
 10 necessary to give notice thereof to persons in the employer's ser-
 11 vice. Each employer shall give to each individual at the time he
 12 becomes unemployed a printed copy of benefit instructions. Both
 13 the aforesaid notices and instructions shall be supplied by the
 14 division to employers without cost to them.

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

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

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

31 If any employer or employing unit fails to respond to the
32 request for information within [7] 10 days after the mailing of
33 such request, the deputy shall rely entirely on information from
34 other sources, including an affidavit to the best of the knowledge
35 and belief of the claimant with respect to his wages and time
36 worked. Except in the event of fraud, if it is determined that any
37 information in such affidavit is erroneous, no penalty shall be
38 imposed on the claimant.

39 The deputy shall promptly make an initial determination based
40 upon the available information. The initial determination shall
41 show the weekly benefit amount payable, the maximum duration
42 of benefits with respect to the employer to whom the determina-
43 tion relates, *and the ratio of benefits chargeable to the employer's*
44 *account for benefit years commencing on or after July 1, 1986*, and
45 also shall show whether the claimant is ineligible or disqualified
46 for benefits under the initial determination. The claimant and the
47 employer whose account may be charged for benefits payable pur-
48 suant to said determination shall be promptly notified thereof.

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

60 reply shall be paid in accordance with such altered initial deter-
61 mination.

62 The deputy shall issue a separate initial benefit determination
63 with respect to each of the claimant's base year employers, starting
64 with the most recent employer and continuing as necessary in
65 the inverse chronological order of the claimant's last date of
66 employment with each such employer. If an appeal is taken from
67 an initial determination as hereinafter provided by any employer
68 other than the first chargeable base-year employer *or for benefit*
69 *years commencing on or after July 1, 1986, that employer from*
70 *whom the individual was most recently separated*, then such appeal
71 shall be limited in scope to include only one or more of the follow-
72 ing matters:

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

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

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

79 (D) *Gross misconduct as provided in subsection (b) of R. S.*
80 *43:21-5.*

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

85 Unless the claimant or any interested party within seven calendar
86 days after delivery of notification of an initial determination or
87 within 10 calendar days after such notification was mailed to his
88 or their last-known address and addresses, files an appeal from
89 such decision, such decision shall be final and benefits shall be paid
90 or denied in accordance therewith, except for such determinations
91 as may be altered in benefit amounts or duration as provided in
92 this paragraph. Benefits payable for periods pending an appeal and
93 not in dispute shall be paid as such benefits accrue; provided, that
94 insofar as any such appeal is or may be an appeal from a deter-
95 mination to the effect that the claimant is disqualified under the
96 provisions of R. S. 43:21-5 or any amendments thereof or supple-
97 ments thereto, benefits pending determination of the appeal shall
98 be withheld only for the period of disqualification as provided for
99 in said section, and notwithstanding such appeal the benefits
100 otherwise provided by this act shall be paid for the period subse-
101 quent to such period of disqualification; and provided, also, that if
102 there are two determinations of entitlement, benefits for the period

103 covered by such determinations shall be paid regardless of any
104 appeal which may thereafter be taken, but no employer's account
105 shall be charged with benefits so paid if the decision is finally
106 reversed.

107 (2) Procedure for making initial determinations in certain cases
108 of concurrent employment, with respect to benefit years commenc-
109 ing on or after January 1, 1953 *and prior to benefit years com-*
110 *mencing on or after July 1, 1986.*

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

133 (3) Procedure for making subsequent determinations with
134 respect to benefit years commencing on or after January 1, 1953.
135 The deputy shall make determinations with respect to claims for
136 benefits thereafter in the course of the benefit year in accordance
137 with any initial determination allowing benefits, and under which
138 benefits have not been exhausted, and each notification of a benefit
139 payment shall be a notification of an affirmative subsequent deter-
140 mination. The allowance of benefits by the deputy on any such
141 determination, or the denial of benefits by the deputy on any such
142 determination, shall be appealable in the same manner and under
143 the same limitations as is provided in the case of initial deter-
144 minations.

145 (c) Appeals. Unless such appeal is withdrawn, an appeal tri-

146 bunal, after affording the parties reasonable opportunity for fair
147 hearing, shall affirm or modify the findings of fact and the deter-
148 mination. The parties shall be duly notified of such tribunal's
149 decision, together with its reasons therefor, which shall be deemed
150 to be the final decision of the board of review, unless within 10 days
151 after the date of notification or mailing of such decision, further
152 appeal is initiated pursuant to subsection (e) of this section.

153 (d) Appeal tribunals. To hear and decide disputed benefit claims,
154 including appeals from determinations with respect to demands
155 for refunds of benefits under section 43:21-16(d) of this chapter
156 (R. S. 43:21-1 et seq.), the director with the approval of the
157 Commissioner of Labor [and Industry] shall establish [one or
158 more] impartial appeal tribunals consisting [in each case] of
159 [either] a salaried [examiner or a] body[, consisting] of exam-
160 iners under the supervision of a Chief Appeals Examiner all of
161 whom shall be appointed pursuant to the provisions of Title 11 of
162 the Revised Statutes, Civil Service and other applicable statutes.

163 (e) Board of review. The board of review may on its own motion
164 affirm, modify, or set aside any decision of an appeal tribunal on
165 the basis of the evidence previously submitted in such case, or
166 direct the taking of additional evidence, or may permit any of the
167 parties to such decision to initiate further appeals before it. The
168 board of review shall permit such further appeal by any of the
169 parties interested in a decision of an appeal tribunal which is not
170 unanimous and from any determination which has been overruled
171 or modified by any appeal tribunal. The board of review may
172 remove to itself or transfer to another appeal tribunal the pro-
173 ceedings on any claim pending before an appeal tribunal. Any
174 proceeding so removed to the board of review shall be heard by
175 a quorum thereof in accordance with the requirements of sub-
176 section (e) of this section. The board of review shall promptly
177 notify the interested parties of its findings and decision.

178 (f) Procedure. The manner in which disputed benefit claims,
179 and appeals from determinations with respect to (1) claims for
180 benefits and (2) demands for refunds of benefits under section
181 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.) shall be pre-
182 sented, the reports thereon required from the claimant and from
183 employers, and the conduct of hearings and appeals shall be in
184 accordance with rules prescribed by the board of review for deter-
185 mining the rights of the parties, whether or not such rules conform
186 to common law or statutory rules of evidence and other technical
187 rules of procedure. A full and complete record shall be kept of all
188 proceedings in connection with a disputed claim. All testimony at

187 any hearing upon a disputed claim shall be recorded, but need not
188 be transcribed unless the disputed claim is further appealed.

189 (g) Witness fees. Witnesses subpoenaed pursuant to this section
190 shall be allowed fees at a rate fixed by the director. Such fees and
191 all expenses of proceedings involving disputed claims shall be
192 deemed a part of the expense of administering this chapter (R. S.
193 43:21-1 et seq.).

194 (h) Court review. Any decision of the board of review shall
195 become final as to any party upon the mailing of a copy thereof to
196 such party or to his attorney, or upon the mailing of a copy thereof
197 to such party at his last-known address. The Division of Unem-
198 ployment and *Temporary* Disability Insurance and any party to a
199 proceeding before the board of review may secure judicial review
200 of the final decision of the board of review. Any party not joining
201 in the appeal shall be made a defendant; the board of review shall
202 be deemed to be a party to any judicial action involving the review
203 of, or appeal from, any of its decisions, and may be represented
204 in any such judicial action by any qualified attorney who may be
205 a regular salaried employee of the board of review or has been
206 designated by it for that purpose, or, at the board of review's
207 request, by the Attorney General.

208 (i) Failure to give notice. The failure of any public officer or
209 employee at any time heretofore or hereafter to give notice of
210 determination or decision required in subsections (b), (c) and (e)
211 of this section, as originally passed or amended, shall not relieve
212 any employer's account of any charge by reason of any benefits
213 paid unless and until that employer can show to the satisfaction
214 of the director of the division that the said benefits, in whole or in
215 part, would not have been charged or chargeable to his account
216 had such notice been given. Any determination hereunder by the
217 director shall be subject to court review.

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

2 43:21-7. Contributions. Employers other than *governmental*
3 *entities whose benefit financing provisions are set forth in section 4*
4 *of P. L. 1971, c. 346 (C. 43:21-7.3) and those nonprofit organiza-*
5 *tions liable for payment in lieu of contributions on the basis set*
6 *forth in [subsection] section 3 of [this act] P. L. 1971, c. 346 (C.*
7 *43:21-7.2), shall pay to the [division] controller for the Unemploy-*
8 *ment Compensation Fund, contributions as set forth in sub-*
9 *sections (a), (b) and (c) hereof, and the provisions of subsections*
10 *(d) and (e) shall be applicable to all employers consistent with the*
11 *provisions of the Unemployment Compensation Law and the*
12 *Temporary Disability Benefits Law. (a) Payment.*

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

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

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

27 (1) For the calendar year 1947, and each calendar year there-
 28 after, $2\frac{7}{10}\%$ of wages paid by him during each such calendar year,
 29 except as otherwise prescribed by subsection (c) of this section.

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

56 commencing on or after January 1, 1972 and prior to January 1,
57 1975, and] the first \$4,800.00 paid during [each] calendar year
58 [commencing on or after January 1,] 1975, any wages paid to such
59 individual by such predecessor during such calendar year and
60 prior to such acquisition shall be considered as having been paid
61 by such successor employer.

61A (3) For calendar years beginning on and after January 1, 1976,
62 the "wages" of any individual as defined in the preceding para-
63 graph (2) of this subsection (b) shall be established and promul-
64 gated by the Commissioner of Labor [and Industry] on or before
65 September 1 of the preceding year and shall be 28 times the State-
66 wide average weekly remuneration paid to workers by employers,
67 as determined under R. S. 43:21-3 (c) [(2)], raised to the next
68 higher multiple of \$100.00 if not already a multiple thereof, pro-
69 vided that if the amount of wages so determined for a calendar
70 year is less than the amount similarly determined for the preceding
71 year, the greater amount will be used; provided, further, that if
72 the amount of such wages so determined does not equal or exceed
73 the amount of wages as defined in subsection (b) of Section
74 3306 of the federal Unemployment Tax Act, Chapter 23 of the
75 Internal Revenue Code of 1954, the wages as determined in this
76 paragraph in any calendar year shall be raised to equal the amount
77 established under the federal Unemployment Tax Act for that
78 calendar year.

79 (c) Future rates based on benefit experience.

80 (1) A separate account for each employer shall be maintained
81 and this shall be credited with all the contributions which he has
82 paid on his own behalf on or before January 31 of any calendar year
83 with respect to employment occurring in preceding calendar years;
84 provided, however, that if January 31 of any calendar year falls
85 on a Saturday or Sunday, an employer's account shall be credited
86 as of January 31 of such calendar year with all the contributions
87 which he has paid on or before the next succeeding day which is not
88 a Saturday or Sunday. But nothing in this chapter (R. S. 43:21-1
89 et seq.) shall be construed to grant any employer or individuals in
90 his service prior claims or rights to the amounts paid by him into
91 the fund either on his own behalf or on behalf of such individuals.
92 Benefits paid with respect to benefit years commencing on and after
93 January 1, 1953, to any individual on or before December 31 of any
94 calendar year with respect to unemployment in such calendar year
95 and in preceding calendar years shall be charged against the ac-
96 count or accounts of the employer or employers in whose employ-
97 ment such individual established base weeks constituting the basis

98 of such benefits. Benefits paid under a given benefit determination
 99 shall be charged against the account of the employer to whom such
 100 determination relates. When each benefit payment is made **[the di-**
 101 **vision shall promptly send]** either a copy of the benefit check or
 102 other form of notification *shall be promptly sent* to the employer
 103 against whose account the benefits are to be charged. Such copy or
 104 notification shall identify the employer against whose account the
 105 amount of such payment is being charged, shall show at least the
 106 name and social security account number of the claimant and shall
 107 specify the period of unemployment to which said check applies.
 108 If the total amount of benefits paid to a claimant and charged to
 109 the account of the appropriate employer exceeds 50% of the total
 110 base-year base week wages paid to the claimant by that employer,
 111 then such employer **[may apply to the division to]** *shall* have can-
 112 celed from his account such excess benefit charges as specified
 113 above. **[Any such application for the cancellation of excess charges**
 114 **shall be submitted by the employer within six months from the date**
 115 **of the benefit check, payment of which creates such charges. In no**
 116 **event will the erasure of such charges affect a contribution rate**
 117 **already assigned to the employer with respect to any fiscal year**
 118 **commencing prior to the date the application is received by the**
 119 **division.]**

120 **[The division shall furnish to each]** *Each* employer *shall be fur-*
 121 *nished* an annual summary statement of benefits charged to his
 122 account.

123 (2) **[The division may prescribe regulations]** *Regulations may*
 124 *be prescribed* for the establishment, maintenance, and dissolution
 125 of joint accounts by two or more employers, and shall, in accordance
 126 with such regulations and upon application by two or more em-
 127 ployers to establish such an account, or to merge their several in-
 128 dividual accounts in a joint account, maintain such joint account
 129 as if it constituted a single employer's account.

130 (3) No employer's rate shall be lower than **[2 $\frac{1}{10}$ %]** 5.4% unless
 131 assignment of such lower rate is consistent with the conditions
 132 applicable to additional credit allowance for such year under sec-
 133 tion 3303 (a) (1) of the Internal Revenue Code (U. S. Code Title
 134 26, section 3303 (a) (1)), any other provision of this section to the
 135 contrary notwithstanding.

136 (4) *Employer Reserve Ratio.* (A) Each employer's rate shall
 137 be 2 $\frac{8}{10}$ % except as otherwise provided in the following provisions.
 138 No employer's rate for the 12 months commencing July 1 of any
 139 calendar year shall be other than 2 $\frac{8}{10}$ % unless as of the preceding
 140 January 31 such employer shall have paid contributions with re-

141 spect to wages paid in each of the three calendar years immediately
 142 preceding such year; in which case such employer's rate for the 12
 143 months commencing July 1 of any calendar year shall be determined
 144 on the basis of his record up to the beginning of such calendar
 145 year. If, at the beginning of such calendar year, the total of all
 146 his contributions, paid on his own behalf, for all past years exceed
 147 the total benefits charged to his account for all such years, his
 148 contribution rate shall be:

149 (1) $2\frac{3}{10}\%$, if such excess equals or exceeds 4%, but less
 150 than 5% of his average annual payroll (as defined in para-
 151 graph (2), subsection (a) of section 43:21-19 of this Title);

152 (2) $2\frac{3}{10}\%$, if such excess equals or exceeds 5%, but is less
 153 than 6% of his average annual payroll;

154 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
 155 than 7%, of his average annual payroll;

156 (4) $1\frac{9}{10}\%$, if such excess equals or exceeds 7%, but is less
 157 than 8%, of his average annual payroll;

158 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
 159 than 9%, of his average annual payroll;

160 (6) 1%, if such excess equals or exceeds 9%, but is less
 161 than 10%, of his average annual payroll;

162 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is
 163 less than 11%, of his average annual payroll;

164 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11%, of his
 165 average annual payroll.

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

170 (1) 4%, if such excess is less than 10% of his average
 171 annual payroll;

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

174 (3) $4\frac{1}{10}\%$, if such excess equals or exceeds 20% of his
 175 average annual payroll.

176 (C) Specially assigned rates. If no contributions were paid on
 177 wages for employment in any calendar year used in determining the
 178 average annual payroll of an employer eligible for an assigned rate
 179 under this paragraph (4), the employer's rate shall be specially
 180 assigned as follows: (i) if the reserve balance in its account is
 181 positive, its assigned rate shall be the highest rate in effect for
 182 positive balance accounts for that period, or ~~2 $\frac{8}{10}$ %~~ 5.4%, which-
 183 ever is higher, and (ii) if the reserve balance in its account is nega-

184 tive, its assigned rate shall be the highest rate in effect for deficit
185 accounts for that period.

186 (D) The contribution rates prescribed by subparagraphs (A)
187 and (B) of this paragraph (4) shall be increased or decreased
188 in accordance with the provisions of paragraph (5) of this sub-
189 section (c) *for experience rating periods through June 30, 1986.*

190 (5) (A) *Unemployment Trust Fund Reserve Ratio.* If on March
191 31 of any calendar year the balance in the unemployment trust fund
192 equals or exceeds 4% but is less than 7% of the total taxable wages
193 reported to the [division] controller as of that date in respect to
194 employment during the preceding calendar year, the contribution
195 rate, effective July 1 following, of each employer eligible for a con-
196 tribution rate calculation based upon benefit experience, shall be
197 increased by $\frac{3}{10}$ of 1% over the contribution rate otherwise estab-
198 lished under the provisions of paragraphs (3) or (4) of this sub-
199 section. If on March 31 of any calendar year the balance of the
200 unemployment trust fund exceeds 2½% but is less than 4% of the
201 total taxable wages reported to the [division of employment se-
202 curity] controller as of that date in respect to employment during
203 the preceding calendar year, the contribution rate, effective July 1
204 following, of each employer eligible for a contribution rate calcu-
205 lation based upon benefit experience, shall be increased by $\frac{6}{10}$ of
206 1% over the contribution rate otherwise established under the
207 provisions of paragraphs (3) or (4) of this subsection.

208 If on March 31 of any calendar year the balance of the unem-
209 ployment trust fund is less than 2½% of the total taxable wages
210 reported to the [Division] controller, as of that date in respect to
211 employment during the preceding calendar year, the contribution
212 rate, effective July 1 following, of each employer (1) eligible for
213 a contribution rate calculation based upon benefit experience, shall
214 be increased by (i) $\frac{6}{10}$ of 1% over the contribution rate otherwise
215 established under the provisions of paragraphs (3), (4) (A) or
216 (4) (B) of this subsection, and (ii) an additional amount equal to
217 20% of the total rate established herein, provided, however, that
218 the final contribution rate for each employer shall be computed to
219 the nearest multiple of $\frac{1}{10}$ % if not already a multiple thereof;
220 (2) not eligible for a contribution rate calculation based upon
221 benefit experience shall be increased by $\frac{6}{10}$ of 1% over the contri-
222 bution rate otherwise established under the provisions of para-
223 graph [(3)] (4) of this subsection. *For the period commencing*
224 *July 1, 1984 and ending June 30, 1986, the contribution rate for*
225 *each employer liable to pay contributions under R. S. 43:21-7 shall*
226 *be increased by a factor of 10% computed to the nearest multiple*
227 *of $\frac{1}{10}$ % if not already a multiple thereof.*

228 (B) If on March 31 of any calendar year the balance in the
 229 unemployment trust fund equals or exceeds 10% but is less than
 230 12½% of the total taxable wages reported to the [division]con-
 231 troller as of that date in respect to employment during the preceding
 232 calendar year, the contribution rate, effective July 1 following, of
 233 each employer eligible for a contribution rate calculation based
 234 upon benefit experience, shall be reduced by ¼ of 1% under the
 235 contribution rate otherwise established under the provisions of
 236 paragraphs (3) and (4) of this subsection; provided that in no
 237 event shall the contribution rate of any employer be reduced to
 238 less than ¼ of 1%. If on March 31 of any calendar year the bal-
 239 ance in the unemployment trust fund equals or exceeds 12½% of
 240 the total taxable wages reported to the [division] controller as
 241 of that date in respect to employment during the preceding calendar
 242 year, the contribution rate, effective July 1 following, of each em-
 243 ployer eligible for a contribution rate calculation based upon bene-
 244 fit experience, shall be reduced by ¼ of 1% if his account for all
 245 past periods reflects an excess of contributions paid over total
 246 benefits charged of 3% or more of his average annual payroll,
 247 otherwise by ¼ of 1% under the contribution rate otherwise es-
 248 tablished under the provisions of paragraphs (3) and (4) of this
 249 subsection; provided, that in no event shall the contribution rate
 250 of any employer be reduced to less than ¼ of 1%.

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

258 (D) *Prior to July 1 of each calendar year the controller shall*
 259 *determine the Unemployment Trust Fund Reserve Ratio, which*
 260 *shall be calculated by dividing the balance of the unemployment*
 261 *trust fund as of the prior March 31 by total taxable wages reported*
 262 *to the controller by all employers as of March 31 with respect to*
 263 *their employment during the last calendar year.*

264 (E) *With respect to experience rating years beginning on or*
 265 *after July 1, 1986 the new employer rate or the unemployment ex-*
 266 *perience rate of an employer under this section shall be the rate*
 267 *which appears in the column headed by the Unemployment Trust*
 268 *Fund Reserve Ratio as of the applicable calculation date and on*
 269 *the line with the Employer Reserve Ratio as defined in paragraph*
 270 *4 of this subsection (R. S. 43:21-7 (c) (4)) as set forth in the fol-*
 271 *lowing table:*

EXPERIENCE RATING TAX TABLE

FUND RESERVE RATIO¹

Employer Reserve Ratio ²	10.00% and Over	7.00% to 9.99%	4.00% to 6.99%	2.50% to 3.99%	2.49% and Under
	A	B	C	D	E
<i>Positive Reserve Ratio:</i>					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
<i>Deficit Reserve Ratio:</i>					
- 0.00% to - 2.99%	3.4	4.3	5.1	5.6	6.1
- 3.00% to - 5.99%	3.4	4.3	5.1	5.7	6.2
- 6.00% to - 8.99%	3.5	4.4	5.2	5.8	6.3
- 9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

¹Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

²Employer's Reserve Ratio (contributions minus benefits as a percentage of employer's taxable wages).

272 (F) *With respect to experience rating years beginning on or*
 273 *after July 1, 1986, if the balance of the unemployment trust fund*
 274 *as of the prior March 31 is negative, the contribution rate for each*
 275 *employer liable to pay contributions as computed under subpara-*
 276 *graph E of this paragraph (5) shall be increased by a factor of*
 277 *10% computed to the nearest multiple of 1/10% if not already a*
 278 *multiple thereof.*

279 (6) Additional contributions.

280 Notwithstanding any other provision of law, any employer who
 281 has been assigned a contribution rate pursuant to subsection (c) of
 282 this section for the year commencing July 1, 1948, and for any year
 283 commencing July 1 thereafter, may voluntarily make payment of
 284 additional contributions, and upon such payment shall receive a
 285 recomputation of the experience rate applicable to such employer
 286 including in the calculation the additional contribution so made.
 287 Any such additional contribution shall be made during the 30-day
 288 period following the date of the mailing to the employer of the
 289 notice of his contribution rate as prescribed in this section, unless,
 290 for good cause, the time for payment has been extended by the
 291 **[director]** *controller* for not to exceed an additional 60 days; pro-
 292 vided, that in no event may such payments which are made later
 293 than 120 days after the beginning of the year for which such rates
 294 are effective be considered in determining the experience rate for
 295 the year in which the payment is made. Any employer receiving any
 296 extended period of time within which to make such additional
 297 payment and failing to make such payment timely shall pay, in
 298 addition to the required amount of additional payment, a penalty
 299 of 5% thereof or \$5.00, whichever is greater, not to exceed \$50.00.
 300 Any adjustment under this subsection shall be made only in the
 301 form of credits against accrued or future contributions.

302 (7) Transfers

303 (A) Upon the transfer of the organization, trade or business, or
 304 substantially all the assets of an employer to a successor in interest,
 305 whether by merger, consolidation, sale, transfer, descent or other-
 306 wise, the **[division]** *controller* shall transfer the employment ex-
 307 perience of the predecessor employer to the successor in interest,
 308 including credit for past years, contributions paid, annual payrolls,
 309 benefit charges, et cetera, applicable to such predecessor employer,
 310 pursuant to **[regulations adopted by the division,]** *regulation* if
 311 **[the division finds]** *it is determined* that the employment experi-
 312 ence of the predecessor employer with respect to the organization,
 313 trade, assets or business, which has been transferred, may be con-
 314 sidered indicative of the future employment experience of the

315 successor in interest. Unless the predecessor employer was owned
316 or controlled (by legally **enforceable** *enforceable* means or other-
317 wise), directly or indirectly, by the successor in interest, or the
318 predecessor employer and the successor in interest were owned
319 or controlled (by legally **enforceable** *enforceable* means or
320 otherwise), directly or indirectly, by the same interest or interests,
321 the transfer of the employment experience of the predecessor shall
322 not be effective if such successor in interest, within four months of
323 the date of such transfer of the organization, trade, assets or
324 business, or thereafter upon good cause shown, files a written notice
325 **with the division** protesting the transfer of the employment
326 experience of the predecessor employer.

327 (B) An employer, who transfers part of his or its organization,
328 trade, assets or business to a successor in interest, whether by
329 merger, consolidation, sale, transfer, descent or otherwise, may
330 jointly make application with such successor in interest for transfer
331 of that portion of the employment experience of the predecessor
332 employer relating to the portion of the organization, trade, assets,
333 or business transferred to the successor in interest, including credit
334 for past years, contributions paid, annual payrolls, benefit charges,
335 et cetera, applicable to such predecessor employer. The **Division**
336 **may allow such** transfer of employment experience *may be allowed*
337 pursuant to regulations **adopted by the division** only if it **finds**
338 *is found* that the employment experience of the predecessor em-
339 ployer with respect to the portion of the organization, trade, assets
340 or business which has been transferred may be considered indica-
341 tive of the future employment experience of the successor in
342 interest. Credit shall be given to the successor in interest only for
343 the years during which contributions were paid by the predecessor
344 employer with respect to that part of the organization, trade, assets
345 or business transferred.

346 (C) A transfer of the employment experience in whole or in part
347 having become final, the predecessor employer thereafter shall not
348 be entitled to consideration for an adjusted rate based upon his or
349 its experience or the part thereof, as the case may be, which has
350 thus been transferred. A successor in interest to whom employment
351 experience or a part thereof is transferred pursuant to this sub-
352 section shall, as of the date of the transfer of the organization,
353 trade, assets or business, or part thereof, immediately become an
354 employer if not theretofore an employer subject to this chapter
355 (R. S. 43:21-1 et seq.).

356 (d) Contribution of workers, transfers to temporary disability
357 benefit fund.

358 (1) [Each worker shall contribute to the fund 1% of his wages
359 with respect to his employment with an employer which occurs on
360 and after January 1, 1971 and prior to January 1, 1975, after such
361 employer has satisfied the conditions set forth in subsection (h)
362 of section 43:21-19 of this Title with respect to becoming an
363 employer; provided, however, that such contribution shall be at
364 the rate of $\frac{1}{4}$ of 1% of wages paid with respect to employment
365 while the worker is in the employ of the State of New Jersey, or is
366 covered by an approved private plan under the Temporary Dis-
367 ability Benefits Law or while the worker is exempt from the
368 provisions of the Temporary Disability Benefits Law under section
369 7 of that law (C. 43:21-31); and provided further that there shall
370 be no contributions by workers in the employ of any employer
371 electing or required to make payments in lieu of contributions
372 unless the employer is covered by the State plan under the Tempo-
373 rary Disability Benefits Law (C. 43:21-37 et seq.), and in that case
374 contributions shall be at the rate of $\frac{3}{4}$ of 1%, and for] (A) For
375 periods after January 1, 1975, each worker shall contribute to the
376 fund 1% of his wages with respect to his employment with an
377 employer which occurs on and after January 1, 1975, after such
378 employer has satisfied the condition set forth in subsection (h) of
379 section 43:21-19 of this Title with respect to becoming an employer;
380 provided, however, that such contribution shall be at the rate of
381 $\frac{1}{2}$ of 1% of wages paid with respect to employment while the
382 worker is in the employ of the State of New Jersey, or any
383 governmental entity or instrumentality which is an employer as
384 defined under R. S. 43:21-19(h) (5), or is covered by an approved
385 private plan under the Temporary Disability Benefits Law or while
386 the worker is exempt from the provisions of the Temporary Dis-
387 ability Benefits Law under section 7 of that law (C. 43:21-31); and
388 provided further that effective] (B) Effective January 1, 1978
389 there shall be no contributions by workers in the employ of any
390 governmental or nongovernmental employer electing or required
391 to make payments in lieu of contributions unless the employer is
392 covered by the State plan under the Temporary Disability Benefits
393 Law (C. 43:21-37 et seq.), and in that case contributions shall be
394 at the rate of $\frac{1}{2}$ of 1%, *except that commencing July 1, 1986,*
395 *workers in the employ of any nongovernmental employer electing*
396 *or required to make payments in lieu of contributions shall be*
397 *required to make contributions to the fund at the same rate pre-*
398 *scribed for workers of other nongovernmental employers.*
399 (C) *Notwithstanding the above provisions of this paragraph (1),*
400 *on or after July 1, 1986, each worker shall contribute to the fund*

401 1.125% of wages paid with respect to his employment with a
 402 governmental employer electing or required to pay contributions
 403 or nongovernmental employer, including a nonprofit organization
 404 which is an employer as defined under R. S. 43:21-19(h) (6) regard-
 405 less of whether that nonprofit organization elects or is required to
 406 finance its benefit costs with contributions to the fund or by pay-
 407 ments in lieu of contributions after that employer has satisfied the
 408 conditions set forth in subsection R. S. 43:21-19(h) of this Title
 409 with respect to becoming an employer. Contributions, however,
 410 shall be at the rate of 0.625% while the worker is covered by an
 411 approved private plan under the Temporary Disability Benefits
 412 Law or while the worker is exempt under section 7 of that law
 413 (C. 43:21-31) or any other provision of that law; provided, that
 414 such contribution shall be at the rate of 0.625% of wages paid with
 415 respect to employment with the State of New Jersey or any other
 416 governmental entity or instrumentality electing or required to
 417 make payments in lieu of contributions and which is covered by
 418 the State plan under the Temporary Disability Benefits Law,
 419 except that, while the worker is exempt from the provisions of the
 420 Temporary Disability Benefits Law under section 7 of that law
 421 (C. 43:21-31) or any other provision of that law, or is covered for
 422 disability benefits by an approved private plan of the employer, the
 423 contribution to the fund shall be 0.125%.

424 (D) Each employer shall, notwithstanding any provision of law in
 425 this State to the contrary, withhold in trust the amount of his
 426 workers' contributions from their wages at the time such wages are
 427 paid, shall show such deduction on his payroll records, shall furnish
 428 such evidence thereof to his workers as the division or controller
 429 may prescribe, and shall transmit all such contributions, in addition
 430 to his own contributions, to the office of the [division] controller
 431 in such manner and at such times as may be prescribed. If any
 432 employer fails to deduct the contributions of any of his workers
 433 at the time their wages are paid, or fails to make a deduction
 434 therefor at the time wages are paid for the next succeeding payroll
 435 period, he alone shall thereafter be liable for such contributions,
 436 and for the purpose of section 43:21-14 of this Title, such contribu-
 437 tions shall be treated as employer's contributions required from
 438 him. (E) As used in this chapter (R. S. 43:21-1 et seq.), except
 439 when the context clearly requires otherwise, the term "contribu-
 440 tions" shall include the contributions of workers pursuant to this
 441 section.

442 (2) (A) [There shall be deposited in and credited to the State
 443 Disability Benefits Fund, as established by law, three-fourths of

444 all worker contributions, received by the division with respect to
 445 wages paid prior to January 1, 1953, and upon which the rate of
 446 contributions is 1%.] (*Deleted by amendment, P. L. , c. .*)

447 (B) [There shall be deposited in and credited to the State Dis-
 448 ability Benefits Fund, as established by law, three-quarters of all
 449 worker contributions received by the division with respect to wages
 450 paid on and after January 1, 1953, and prior to January 1, 1971,
 451 and upon which the rate of contributions is $\frac{3}{4}$ of 1%.] (*Deleted*
 452 *by amendment, P. L. , c. .*)¹

453 (C) [There shall be deposited in and credited to the State Dis-
 454 ability Benefits Fund, as established by law, three quarters of all
 455 worker contributions, received by the division with respect to wages
 456 paid on or after January 1, 1971 and prior to January 1, 1975, and
 457 upon which the rate of contributions is 1%, and with] *With* respect
 458 to wages paid on and after January 1, 1975, there shall be deposited
 459 in and credited to the State Disability Benefits Fund, as established
 460 by law, one-half of all worker contributions received by the [divi-
 461 sion] *controller* upon which the rate of contribution is 1%.

462 (D) [There shall be deposited in and credited to the State Dis-
 463 ability Benefits Fund, as established by law, all worker contribu-
 464 tions received by the division with respect to wages paid on or
 465 after January 1, 1972 and prior to January 1, 1975, upon which the
 466 rate of contributions is $\frac{3}{4}$ of 1% and with respect to wages paid
 467 on or after January 1, 1975, there shall be deposited to the State
 468 Disability Benefits Fund, as established by law, all] *All* worker
 469 contributions received by the [division] *controller* from all em-
 470 ployers *electing or required to make payments in lieu of contribu-*
 471 *tions*, upon which the rate of contributions is $\frac{1}{2}$ of 1%, except the
 472 State of New Jersey or any other governmental entity or instru-
 473 mentality defined as an employer under R. S. 43:21-19(h) (5),
 474 unless the State of New Jersey or such other governmental entity
 475 or instrumentality is a "covered employer" as defined in R. S.
 476 43:21-27.

477 (E) *Notwithstanding the above with respect to wages on or after*
 478 *July 1, 1986, there shall be deposited in and credited to the State*
 479 *Disability Benefits Fund $\frac{4}{9}$ of all worker contributions received*
 480 *by the controller upon which the rate of contributions is 1.125%*
 481 *and $\frac{4}{5}$ of the contributions received by the controller upon which*
 482 *the rate of contributions is 0.625% of wages paid with respect to*
 483 *employment with the State of New Jersey or any other govern-*
 484 *mental entity or instrumentality electing or required to make pay-*
 485 *ments in lieu of contributions and which is covered by the State*
 486 *Plan under the Temporary Disability Benefits Law.*

487 (3) If an employee receives wages from more than one employer
488 during any calendar year, and either the sum of his contributions
489 deposited in and credited to the State Disability Benefits Fund (in
490 accordance with paragraph (2) of this subsection) plus the amount
491 of his contributions, if any, required towards the costs of benefits
492 under one or more approved private plans under the provisions
493 of section 9 of the Temporary Disability Benefits Law (C. 43:21-33)
494 and deducted from his wages, or the sum of such latter contribu-
495 tions if the employee is covered during such calendar year, only
496 by two or more private plans, exceeds [\$18.00 in any calendar year
497 prior to January 1, 1971, \$27.00 during the calendar year 1971,
498 \$31.50 during calendar years 1972, 1973 and 1974; \$24.00 during
499 the calendar year 1975 or] an amount equal to $\frac{1}{2}$ of 1% of the
500 "wages" determined in accordance with the provisions of R. S.
501 43:21-7(b) (3) during the calendar years beginning on or after
502 January 1, 1976, the employee shall be entitled to a refund of
503 the excess if he makes a claim to the [division] controller within
504 two years after the end of the calendar year in which the wages
505 are received with respect to which the refund is claimed and estab-
506 lishes his right to such refund. Such refund shall be made by the
507 [division] controller from the State Disability Benefits Fund. No
508 interest shall be allowed or paid with respect to any such refund.
509 The [division] controller shall in accordance with prescribed regu-
510 lations, determine the portion of the aggregate amount of such
511 refunds made during any calendar year which is applicable to
512 private plans for which deductions were made under section 9 of
513 the "Temporary Disability Benefits Law," such determination to
514 be based upon the ratio of the amount of such wages exempt from
515 contributions to such fund as provided in subparagraph (B) of
516 paragraph (1) of this subsection with respect to coverage under
517 private plans to the total wages so exempt plus the amount of such
518 wages subject to contributions to the disability benefits fund as
519 provided in subparagraph (B) of paragraph (2) of this subsection.
520 The [division] controller shall, in accordance with prescribed
521 regulations, prorate the amount so determined among the appli-
522 cable private plans in the proportion that the wages covered by
523 each plan bears to the total private plan wages involved in such
524 refunds, and shall assess against and recover from the employer,
525 or the insurer if the insurer has indemnified the employer with
526 respect thereto, the amount so prorated. The provisions of R. S.
527 43:21-14, with respect to collection of employer contributions shall
528 apply to such assessments. The amount so recovered by the [divi-
529 sion] controller shall be paid into the State Disability Benefits
530 Fund.

531 (4) If an individual does not receive any wages from the employ-
532 ing unit which for the purposes of this chapter (R. S. 43:21-1 et
533 seq.) is treated as his employer, or receives his wages from some
534 other employing unit, such employer shall nevertheless be liable for
535 such individual's contributions in the first instance; and after pay-
536 ment thereof such employer may deduct the amount of such contri-
537 butions from any sums payable by him to such employing unit, or
538 may recover the amount of such contributions from such employing
539 unit, or, in the absence of such an employing unit, from such indi-
540 vidual, in a civil action; provided, proceedings therefor are insti-
541 tuted within three months after the date on which such contribu-
542 tions are payable. General rules shall be prescribed whereby such
543 an employing unit may recover the amount of such contributions
544 from such individuals in the same manner as if it were the employer.

545 (5) Every employer who has elected to become an employer sub-
546 ject to this chapter (R. S. 43:21-1 et seq.), or to cease to be an
547 employer subject to this chapter (R. S. 43:21-1 et seq.), pursuant
548 to the provisions of section 43:21-8 of this Title, shall post and
549 maintain printed notices of such election on his premises, of such
550 design, in such numbers, and at such places as the director may
551 determine to be necessary to give notice thereof to persons in his
552 service.

553 (6) Contributions by workers, payable to the [division] con-
554 troller as herein provided, shall be exempt from garnishment,
555 attachment, execution, or any other remedy for the collection of
556 debts.

557 (e) Contributions by employers to State Disability Benefits
558 Fund.

559 (1) Except as hereinafter provided, each employer shall, in addi-
560 tion to the contributions required by subsections (a), (b), and (c)
561 of this section, contribute $\frac{1}{2}$ of 1% of the wages paid by such em-
562 ployer to workers with respect to employment unless he is not a
563 covered employer as defined in section 3 of the Temporary Dis-
564 ability Benefits Law (C. 43:21-27 (a)), except that the rate for
565 the State of New Jersey shall be $\frac{1}{10}$ of 1% for the calendar year
566 1980 and for the first six months of 1981. Prior to July 1, 1981 and
567 prior to July 1 each year thereafter, the [division] controller shall
568 review the experience accumulated in the account of the State of
569 New Jersey and establish a rate for the next following fiscal year
570 which, in combination with worker contributions, will produce
571 sufficient revenue to keep the account in balance; except that the
572 rate so established shall not be less than $\frac{1}{10}$ of 1%. Such contribu-
573 tions shall become due and be paid by the employer to the [divi-

574 sion] *controller* for the State Disability Benefits Fund as estab-
575 lished by law, in accordance with such regulations as may be
576 prescribed, and shall not be deducted, in whole or in part, from the
577 remuneration of individuals in his employ. In the payment of any
578 contributions, a fractional part of a cent shall be disregarded unless
579 it amounts to \$0.005 or more, in which case it shall be increased
580 to \$0.01.

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

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

589 (B) A separate disability benefits account shall be maintained
590 for each employer required to contribute to the State Disability
591 Benefits Fund and such account shall be credited with contributions
592 deposited in and credited to such fund with respect to employment
593 occurring on and after January 1, 1949. Each employer's account
594 shall be credited with all contributions paid on or before January
595 31 of any calendar year on his own behalf and on behalf of indi-
596 viduals in his service with respect to employment occurring in
597 preceding calendar years; provided, however, that if January 31
598 of any calendar year falls on a Saturday or Sunday an employer's
599 account shall be credited as of January 31 of such calendar year
600 with all the contributions which he has paid on or before the next
601 succeeding day which is not a Saturday or Sunday. But nothing in
602 this act shall be construed to grant any employer or individuals in
603 his service prior claims or rights to the amounts paid by him to the
604 fund either on his own behalf or on behalf of such individuals.
605 Benefits paid to any covered individual in accordance with Article
606 III of the Temporary Disability Benefits Law on or before De-
607 cember 31 of any calendar year with respect to disability in such
608 calendar year and in preceding calendar years shall be charged
609 against the account of the employer by whom such individual was
610 employed at the commencement of such disability or by whom he
611 was last employed if out of employment.

612 (C) The [division] *controller* may prescribe regulations for the
613 establishment, maintenance, and dissolution of joint accounts by
614 two or more employers, and shall, in accordance with such regula-
615 tions and upon application by two or more employers to establish
616 such an account, or to merge their several individual accounts in a

617 joint account, maintain such joint account as if it constituted a
618 single employer's account.

619 (D) Prior to July 1 of each calendar year, the [division] *con-*
620 *troller* shall make a preliminary determination of the rate of con-
621 tribution for the 12 months commencing on such July 1 for each
622 employer subject to the contribution requirements of this sub-
623 section (e).

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

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

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

635 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
636 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

637 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds
638 $1\frac{1}{2}$ % of his average annual payroll.

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

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

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

649 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
650 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual
651 payroll;

652 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or ex-
653 ceeds $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual
654 payroll;

655 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or ex-
656 ceeds $\frac{3}{4}$ of 1% but is less than 1% of his average annual
657 payroll;

658 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
659 1% of his average annual payroll.

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

666 (E) (1) Prior to July 1 of each calendar year the [division]
 667 controller shall determine the amount of the State Disability Bene-
 668 fits Fund as of December 31 of the preceding calendar year in-
 669 creased by the contributions paid thereto during January of the
 670 the current calendar year with respect to employment occurring in
 671 preceding calendar years. If such amount exceeds the [total of the
 672 amounts] net amount withdrawn from the unemployment trust
 673 fund pursuant to section 23 of the Temporary Disability Benefits
 674 Law P. L. 1948, c. 110 (C. 43:21-47) plus the amount at the end
 675 of such preceding calendar year of the unemployment disability
 676 account (as defined in section 22 of said law (C. 43:21-46)), such
 677 excess shall be expressed as a percentage of the wages on which
 678 contributions were paid to the State Disability Benefits Fund on or
 679 before January 31 with respect to employment in the preceding
 680 calendar year.

681 (2) The [division] controller shall then make a final determina-
 682 tion of the rates of contribution for the 12 months commencing
 683 July 1 of such year for employers whose preliminary rates are
 684 determined as provided in (D) hereof, as follows:

685 (i) If the percentage determined in accordance with para-
 686 graph (E) (1) of this subsection equals or exceeds $1\frac{1}{4}\%$ the
 687 final employer rates shall be the preliminary rates determined
 688 as provided in (D) hereof, except that if the employer's pre-
 689 liminary rate is determined as provided in (D) (2) or (D) (3)
 690 hereof, the final employer rate shall be the preliminary em-
 691 ployer rate decreased by such percentage of excess taken to
 692 the nearest $\frac{5}{100}$ of 1%, but in no case shall such final rate be
 693 less than $\frac{1}{10}$ of 1%.

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

698 (iii) If the percentage determined in accordance with para-
 699 graph (E) (1) of this subsection is less than $\frac{3}{4}$ of 1%, but in
 700 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the pre-
 701 liminary employer rates determined as provided in (D) hereof
 702 increased by the difference between $\frac{3}{4}$ of 1% and such per-

703 centage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
 704 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case
 705 of an employer whose preliminary rate is determined as pro-
 706 vided in (D) (2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
 707 employer whose preliminary rate is determined as provided in
 708 (D) (1) and (D) (3) hereof, nor more than $\frac{3}{4}$ of 1% in the
 709 case of an employer whose preliminary rate is determined as
 710 provided in (D) (4) hereof.

711 (iv) If the amount of the State Disability Benefits Fund
 712 determined as provided in paragraph (E) (1) of this sub-
 713 section is equal to or less than $\frac{1}{4}$ of 1%, then the final rate
 714 shall be $\frac{2}{5}$ of 1% in the case of an employer whose preliminary
 715 rate is determined as provided in (D) (2) hereof, $\frac{7}{10}$ of 1% in
 716 the case of an employer whose preliminary rate is determined
 717 as provided in (D) (1) and (D) (3) hereof, and 1.1% in the
 718 case of an employer whose preliminary rate is determined as
 719 provided in (D) (4) hereof. Notwithstanding any other provi-
 720 sion of law or any determination made by the [division] con-
 721 troller with respect to any 12-month period commencing on
 722 July 1, 1970, the final rates for all employers for the period
 723 beginning January 1, 1971, shall be as set forth herein.

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

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

10 (1) Any nonprofit organization which is, or becomes, subject to
 11 the Unemployment Compensation Law on or after January 1, 1972,
 12 shall pay contributions under the provisions of R. S. 43:21-7, un-
 13 less it elects in accordance with this paragraph, to pay to [the divi-
 14 sion for] the unemployment fund an amount equal to the amount of
 15 regular benefits and $\frac{1}{2}$ of the extended benefits paid, that are attrib-
 16 utable to base year service in the employ of such nonprofit orga-
 17 nization during the effective period of such election;

18 (2) Any nonprofit organization which is, or becomes subject to
 19 the Unemployment Compensation Law on January 1, 1972 may
 20 elect to become liable for payments in lieu of contributions for a
 21 period of not less than two calendar years beginning with January
 22 1, 1972, provided it files [with the division] a written notice of its

23 election within the 120-day period immediately following such date
24 or within a like period immediately following the enactment of this
25 act, whichever occurs later;

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

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

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

50 (6) **The division may for** For good cause extend the period
51 within which a notice of election or a notice of termination must be
52 filed *may be extended* and **may permit an** *a retroactive* election
53 **to be retroactive** *may be permitted*;

54 (7) If an election for payments in lieu of contributions is termi-
55 nated by a nonprofit organization or canceled **by the division**,
56 the nonprofit organization shall remain liable for payments in lieu
57 of contributions with respect to all benefits paid based on base year
58 wages earned in the employ of such nonprofit organization during
59 the effective period of the election;

60 (8) **The division in** *In* accordance with such regulations as
61 **it** may **prescribe** *be prescribed*, **shall notify** such nonprofit
62 organization *shall be notified* of any determination which **the**
63 **division** may **make** *be made* of the effective date and the
64 termination date of any such election and such determination shall
65 be subject to reconsideration, appeal and review and

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

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

79 (B) Its average annual payroll shall be determined without
 80 inclusion of any of the wages paid in any calendar year during
 81 which its election to make payments in lieu of contributions
 82 was effective for any part of the calendar year;

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

87 (D) For the period from the date of the termination of its
 88 election to the July 1 following termination, the nonprofit
 89 organization shall be assigned a rate of 1% for contributions
 90 under the Unemployment Compensation Law.

91 (b) Reimbursement payments. At the end of each calendar
 92 month, or at the end of any other period as determined by the
 93 **[division] controller**, the **[division] controller** shall bill each non-
 94 profit organization or group of such organizations which has elected
 95 to make payments in lieu of contributions for an amount equal to
 96 the full amount of regular benefits plus $\frac{1}{2}$ of the amount of any
 97 extended benefits paid during such month or other prescribed period
 98 that are attributable to base year service of individuals in the
 99 employ of such organization during the effective period of the
 100 election, and the provisions of the Unemployment Compensation
 101 Law (R. S. 43:21-1 et seq.), and the amendments and supplements
 102 thereto, shall be applicable with respect to the payment of claims
 103 for benefits and the charging thereof; provided, however, that no
 104 employer who elects to make payments in lieu of contributions shall
 105 be relieved of any charges for benefits paid to his workers by reason
 106 of R. S. 43:21-6(b)(1), R. S. 43:21-7(c)(1), or section 6 of chapter
 107 324 of the laws of 1970 (C. 43:21-24.12, Extended Benefits Law).

108 (c) Payment of any bill rendered under subsection (b) above

109 shall be made not later than 30 days after such bill was mailed to
110 the last known address of the nonprofit organization or was other-
111 wise delivered to it unless there has been an application for review
112 and redetermination in accordance with subsection (e).

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

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

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

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

147 (h) **Provision for bond or other security.** In the discretion of
148 the **[division]** *controller* any nonprofit organization that elects to
149 become liable for payments in lieu of contributions shall be re-
150 quired within 30 days after the effective date of its election, to
151 execute and file with the **[division]** *controller* a surety bond ap-

152 proved by the [division] *controller* or it may elect instead to deposit
153 with the [division] *controller* moneys or securities approved by
154 the [division] *controller*. The amount of the bond or deposit shall
155 be determined by the [division] *controller* and shall not exceed the
156 amount derived by multiplying the organization's taxable wages for
157 the preceding calendar year, or the organization's estimated taxable
158 wages for the ensuing year, whichever is the greater, by the maxi-
159 mum unemployment insurance contribution rate in effect at the
160 beginning of the calendar year for which the bond or deposit is
161 required; provided, however, that any organization which is a self-
162 insurer and is exempt from insuring workers' compensation liability
163 under the Workers' Compensation Law, shall so long as such
164 exemption remains in effect be exempt from the surety bond and
165 security deposit requirements of this subsection; and any other
166 organization which shall satisfy the [division] *controller* as to its
167 financial ability to meet the cost of benefits provided under the
168 Unemployment Compensation Law and the Temporary Disability
169 Benefits Law, may, upon application, be exempted from such re-
170 quirements by written order of the [division] *controller*, which
171 order shall be revocable at any time.

172 (1) Bond. The amount of any bond deposited under this sub-
173 section shall require adjustments as the [division] *controller* deems
174 appropriate. If the bond is to be increased, the adjusted bond shall
175 be filed by the organization within 30 days after notice of the re-
176 quired adjustment was mailed or otherwise delivered to it. Failure
177 of any organization covered by such bond to pay the full amount
178 of payment in lieu of contributions when due, together with any
179 applicable interest and penalties, shall render the surety liable on
180 said bond to the extent of said bond as though the surety was such
181 organization.

182 (2) Deposit of money or securities. Any deposit of money or
183 securities in accordance with this subsection shall be retained by
184 the [division] *controller* in an escrow account until liability under
185 the election is terminated, at which time it shall be returned to
186 the organization less any deductions as hereinafter provided. The
187 [division] *controller* may deduct from any moneys deposited under
188 this subsection by a nonprofit organization, or sell the securities
189 it has so deposited, to the extent necessary to satisfy any due and
190 unpaid payments in lieu of contributions and any applicable interest
191 and penalties. The [division] *controller* shall require the organiza-
192 tion within 30 days following any deduction from a money deposit
193 or sale of deposited securities under the provisions of this sub-
194 section to deposit sufficient additional money or securities to make

195 whole the organization's deposit at the prior level. Any cash re-
196 maining from the sale of such securities shall be a part of the
197 organization's escrow account. The [division] controller may at
198 any time review the adequacy of the deposit made by any organi-
199 zation. If, as a result of such review, the [division] controller
200 determines that an adjustment is necessary it shall require the
201 organization to make an additional deposit within 30 days of
202 written notice of the [division's] controller's determination or
203 shall return to it such portion as the [division] controller no longer
204 considers necessary, as deemed appropriate. Disposition of income
205 from securities held in escrow shall be governed by applicable
206 State law.

207 (3) Authority to terminate elections. If any nonprofit organiza-
208 tion fails to file a bond or make a deposit, or to increase or make
209 whole the amount of a previously made bond or deposit, as pro-
210 vided under this subsection, the [division] controller may terminate
211 such organization's election to make payments in lieu of contri-
212 butions and such termination shall continue for no less than 24
213 calendar months beginning with the first quarter in which such
214 termination becomes effective, provided the [division] controller
215 may extend for good cause the applicable filing, deposit or adjust-
216 ment period by not more than 90 days.

217 (i) Group accounts. Two or more employers that have become
218 liable for payments in lieu of contributions may file a joint appli-
219 cation [with the division] for the establishment of a group account
220 for the purpose of sharing the cost of benefits paid that are attribut-
221 able to services in the employ of such employers. Each such ap-
222 plication shall identify and authorize a group representative to
223 act as the group's agent for the purpose of this subsection. Upon
224 approval of the application, [the division shall establish] a group
225 account *shall be established* for such employers effective as of the
226 beginning of the calendar quarter in which the application is re-
227 ceived or the next calendar quarter, [in the discretion of the
228 division] *as appropriate*, and [shall notify] the group's repre-
229 sentative *shall be notified* of the effective date of the account.
230 Such account shall remain in effect for not less than two calendar
231 years and thereafter until terminated [at the discretion of the divi-
232 sion] or upon application by the group. [The division shall pre-
233 scribe such regulations] *Regulations may be prescribed* as [it may
234 deem] necessary, with respect to applications for establishment,
235 maintenance, and termination of group accounts authorized by this
236 subsection, for addition of new members to, and withdrawal of
237 active members from, such accounts, and for the determination of

238 the amounts that are payable under this subsection by members
239 of the group, and the time and manner of such payments.

1 7. R. S. 43:21-9 is amended to read as follows:

2 43:21-9. (a) Establishment and control. There is hereby estab-
3 lished as a special fund, separate and apart from all public moneys
4 or funds of this State, an unemployment compensation fund, which
5 shall be administered by the [division] *Department of Labor* ex-
6 clusively for the purpose of this chapter (R. S. 43:21-1 et seq.).
7 This fund shall consist of (1) all contributions and payments in
8 lieu of contributions collected under this chapter (R. S. 43:21-1
9 et seq.); (2) interest earned upon any moneys in the fund; (3) any
10 property or securities acquired through the use of moneys belong-
11 ing to the fund; (4) all earnings on such property or securities;
12 (5) all moneys credited to this State's account in the unemploy-
13 ment trust fund pursuant to section 903 of the Social Security Act
14 (42 U. S. C. 1103), as amended; and (6) all moneys received for
15 the fund from any other source. All moneys in this fund shall be
16 mingled and undivided.

17 (b) Accounts and deposits. The Treasurer of the State of New
18 Jersey shall be ex officio the treasurer and custodian of the fund
19 and shall administer such fund in accordance with the directions
20 of the [division] *department* and shall issue his warrants upon it
21 in accordance with such regulations as the [division] *department*
22 shall prescribe. He shall maintain within the fund three separate
23 accounts: (1) a clearing account, (2) an unemployment trust fund
24 account, and (3) a benefit account. All moneys payable to the fund,
25 upon receipt thereof by the [division] *department*, shall be for-
26 warded to the treasurer, who shall immediately deposit them in
27 the clearing account. Refunds payable pursuant to subsection (f)
28 of section 43:21-14 of this Title may be paid from the clearing
29 account upon warrants issued by the treasurer under the direction
30 of the [division] *controller*. After clearance thereof, all other
31 moneys in the clearing account shall be immediately deposited with
32 the Secretary of the Treasury of the United States of America to
33 the credit of the account of this State in the unemployment trust
34 fund, established and maintained pursuant to section 904 of the
35 Social Security Act (42 U. S. C. 1104), as amended, any provisions
36 of law in this State relating to the deposit, administration, release
37 or disbursement of moneys in the possession or custody of this State
38 to the contrary notwithstanding. The benefit account shall consist
39 of all moneys requisitioned from this State's account in the unem-
40 ployment trust fund. Moneys in the clearing and benefit accounts
41 may be deposited by the treasurer, under the direction of the [di-

42 vision] *controller* in any bank or public depository in which general
43 funds of the State may be deposited, but no public deposit insurance
44 charge or premium shall be paid out of the fund. The treasurer
45 shall give a separate bond conditioned upon the faithful perform-
46 ance of his duties as custodian of the fund in an amount fixed by
47 the [division] *controller* and in a form prescribed by law or ap-
48 proved by the Attorney General. Premiums for said bond shall
49 be paid from the administration fund.

50 (c) Withdrawals from the unemployment trust fund.

51 (1) Benefit payments. Moneys requisitioned from this State's
52 account in the unemployment trust fund shall be used solely for the
53 payment of benefits and in accordance with regulations prescribed
54 by the division, except that money credited to this State's account
55 pursuant to section 903 of the Social Security Act (42 U. S. C. 1193),
56 as amended, may be used for the payment of expenses for the
57 administration of this chapter (R. S. 43:21-1 et seq.) as provided in
58 paragraph (2) of this subsection. The [division] *controller* shall
59 from time to time requisition from the unemployment trust fund
60 such amounts, not exceeding the amounts standing to its account
61 therein, as it deems necessary for the payment of benefits for a
62 reasonable future period. Upon receipt thereof the treasurer shall
63 deposit such moneys in the benefit account, and the payment of
64 benefits shall be made solely from such benefit account. Expendi-
65 tures of such moneys in the benefit account and refunds from the
66 clearing account shall not be subject to any provisions of law re-
67 quiring specific appropriations or other formal release by State
68 officers of money in their custody. All warrants for the payment
69 of benefits shall be issued by and bear only the signature of the
70 [director] *Commissioner of Labor* or his duly authorized agent
71 for that purpose. All warrants for the payment of refunds shall
72 be issued by the treasurer and bear the signature of the treasurer
73 and the countersignature of the [director] *commissioner* or his
74 duly authorized agent for that purpose. Any balance of moneys
75 requisitioned from the unemployment trust fund which remains
76 unclaimed or unpaid in the benefit account after the expiration of
77 the period for which such sums were requisitioned shall either
78 be deducted from estimates for, and may be utilized for the pay-
79 ment of, benefits during succeeding periods, or, in the discretion
80 of the [division] *department*, shall be deposited with the Secretary
81 of the Treasury of the United States of America, to the credit of
82 this State's account in the unemployment trust fund, as provided
83 in subsection (b) of this section.

84 (2) Administrative use. Moneys credited to the account of this
 85 State by the Secretary of the Treasury of the United States in the
 86 unemployment trust fund pursuant to section 903 of the Social
 87 Security Act (42 U. S. C. 1103), as amended, may be requisitioned
 88 and used for the payment of expenses for the administration of
 89 the Unemployment Compensation Law (R. S. 43:21-1 et seq.) pur-
 90 suant to a specific appropriation by the Legislature, provided that
 91 the expenses are incurred and the moneys are requisitioned after
 92 the enactment of an appropriation law which

93 (A) specifies the purposes for which such moneys are ap-
 94 propriated and the amounts appropriated therefor;

95 (B) limits the period within which such moneys may be
 96 obligated to a period ending not more than two years after
 97 the date of the enactment of the appropriation law; and

98 (C) limits the moneys which may be obligated during a 12-
 99 month period beginning on July 1 and ending on the next June
 100 30 to a sum which does not exceed the amount by which the
 101 aggregate of the moneys credited to the account of this State
 102 pursuant to section 903 of the Social Security Act (42 U. S. C.
 103 1103), as amended, during the same 12-month period and the
 104 **[24]** ³⁴ preceding 12-month periods, exceeds the aggregate of
 105 moneys obligated for the payment of expenses incurred for the
 106 administration of this chapter (R. S. 43:21-1 et seq.) and the
 107 moneys paid out for benefits which is charged against the
 108 moneys credited to the account of this State during such **[25]**
 109 ³⁵ 12-month periods.

110 Moneys credited to this State's account in the unemployment trust
 111 fund under section 903 of the Social Security Act (42 U. S. C. 1103),
 112 as amended, which are obligated for the payment of expenses for
 113 the administration of this chapter (R. S. 43:21-1 et seq.) or paid
 114 out for benefits shall be charged against equivalent amounts which
 115 were first credited and which are not already so charged; except
 116 that no moneys obligated for the payment of expenses for the
 117 administration of this chapter (R. S. 43:21-1 et seq.) during a
 118 12-month period specified herein may be charged against any
 119 amount credited during such a 12-month period earlier than the
 120 **[twenty-fourth]** *thirty-fourth* preceding such period.

121 Money appropriated as provided herein for the payment of
 122 expenses of administration shall be requisitioned as needed for the
 123 payment of obligations incurred under such appropriation and upon
 124 requisition shall be deposited in the unemployment compensation
 125 administration fund from which such payments shall be made.
 126 Money so deposited shall, until expended, remain a part of the un-

127 employment compensation fund. If such money will not be expended
 128 it shall be returned promptly to the Secretary of the Treasury of
 129 the United States for credit to this State's account in the unemploy-
 130 ment trust fund. The **division** *controller* shall maintain a sepa-
 131 rate record of the credits, appropriation, obligation and expendi-
 132 ture of the money credited to the account of this State in the un-
 133 employment trust fund pursuant to section 903 of the Social Security
 134 Act (42 U. S. C. 1103), as amended.

135 (d) Management of funds upon discontinuance of unemployment
 136 trust fund. The provisions of subsections (a), (b) and (c) to the
 137 extent that they relate to the unemployment trust fund shall be
 138 operative only so long as such unemployment trust fund continues
 139 to exist and so long as the Secretary of the Treasury of the United
 140 States of America continues to maintain for this State a separate
 141 book account of all funds deposited therein by this State for benefit
 142 purposes, together with this State's proportionate share of the
 143 earnings of such unemployment trust fund, from which no other
 144 state is permitted to make withdrawals. If and when such unem-
 145 ployment trust fund ceases to exist, or such separate book account
 146 is no longer maintained, all moneys, properties, or securities therein,
 147 belonging to the unemployment compensation fund of this State
 148 shall be transferred to the treasurer of the unemployment compen-
 149 sation fund, who shall hold, invest, transfer, sell, deposit and release
 150 such moneys, properties or securities in a manner approved by the
 151 **division** *department*, in accordance with the provisions of this
 152 chapter; provided, that such moneys shall be invested in the fol-
 153 lowing readily marketable classes of securities: Bonds or other
 154 interest-bearing obligations of the United States of America and
 155 of the State of New Jersey; and provided, further, that such in-
 156 vestment shall at all times be so made that all the assets of the fund
 157 shall always be readily convertible into cash when needed for the
 158 payment of benefits. The treasurer shall dispose of securities or
 159 other properties belonging to the unemployment compensation fund
 160 only under the direction of the **division** *department*.

1 8. R. S. 43:21-11 is amended to read as follows:

2 43:21-11. (a) Duties and powers of the **division** *Department of*
 3 *Labor*. **It shall be the duty of the division to determine all matters**
 4 **of policy; and it** *The department* shall have power and authority
 5 to adopt, amend, or rescind such rules and regulations, require
 6 such reports, make such investigations, and take such other action
 7 as it deems necessary or suitable **to that end** or to administer
 8 this chapter; provided, that the **division** *Commissioner of Labor*
 9 may delegate such power and authority **to the director** subject to

10 ~~their~~ his ultimate supervision and control. Such rules and regula-
11 tions shall be effective upon publication in the manner, not incon-
12 sistent with the provisions of this chapter, which the ~~division~~
13 *department* shall prescribe. The ~~division~~ *department* shall deter-
14 mine its own organization and methods of procedure in accordance
15 with the provisions of this chapter, and shall have an official seal
16 which shall be judicially noticed. Not later than March 1 of each
17 year, the division shall submit to the Governor a report covering
18 the administration and operation of this chapter during the pre-
19 ceding calendar year and shall make such recommendations for
20 amendments to this chapter as the division deems proper. Such
21 report shall include a balance sheet of the moneys in the fund in
22 which there shall be provided, if possible, a reserve against the
23 liability in future years to pay benefits in excess of the then current
24 contributions, which reserve shall be set up by the division in
25 accordance with accepted actuarial principles on the basis of
26 statistics of employment, business activity, and other relevant
27 factors for the longest possible period. Whenever the ~~division~~
28 *department* believes that a change in contribution or benefit rates
29 will become necessary to protect the solvency of the fund, it shall
30 promptly so inform the Governor and the Legislature, and make
31 recommendations with respect thereto. ~~The division shall make~~
32 ~~a study of the problem of paying partial benefits for partial unem-~~
33 ~~ployment.~~

34 (b) Regulations and general and special rules. General and
35 special rules may be adopted, amended, or rescinded by the ~~divi-~~
36 ~~sion~~ *department*. General rules shall become effective 10 days
37 after filing with the Secretary of State and publication in one or
38 more newspapers of general circulation in this State. Special rules
39 shall become effective 10 days after notification to or mailing to the
40 last known address of the individuals or concerns affected thereby.
41 Regulations may be adopted, amended, or rescinded by the ~~divi-~~
42 ~~sion~~ *department* and shall become effective in the manner and at
43 the time prescribed by the ~~division~~ *department*.

44 (c) Publication. The ~~division~~ *department* shall cause to be
45 printed for distribution to the public the text of this chapter, the
46 ~~division's~~ *department's* regulations and general rules, its annual
47 reports to the Governor, and any other material the ~~division~~
48 *department* deems relevant and suitable and shall furnish the same
49 to any person upon application therefor.

50 (d) Personnel. Subject to other provisions of this chapter, the
51 ~~division~~ *department* is authorized to appoint (subject to the
52 provisions of Title 11, Civil Service), fix the compensation, and

53 prescribe the duties and powers of such officers, accountants, attor-
54 neys, experts, and other persons as may be necessary in the per-
55 formance of its duties *under R. S. 43:21-1 et seq.* All positions shall
56 be filled by persons selected and appointed on a nonpartisan merit
57 basis from lists of eligible persons prepared by the Civil Service
58 Commission, in accordance with the provisions of Title 11, Civil
59 Service, except that any attorney, now or hereafter in office or
60 position of legal assistant for the **[division]** *department*, shall be
61 placed in the exempt class of the civil service and thereafter shall
62 not be subject to removal except for cause and then only in accor-
63 dance with the provisions of Title 11, Civil Service; provided,
64 however, that nothing herein shall be construed to apply to any
65 attorney designated as special counsel in accordance with the pro-
66 visions of sections 43:21-6, subsection (h), and 43:21-17. The
67 **[division]** *department* shall not employ or pay any person who is
68 an officer or committee member of any political party organization.
69 The **[division]** *commissioner* may delegate to any such person so
70 appointed such power and authority as **[it]** *he* deems reasonable
71 and proper for the effective administration of this chapter, and
72 may in **[its]** *his* discretion bond any person handling moneys or
73 signing checks hereunder.

74 (e) Employment Security Council. There shall be within the
75 **[Division of Employment Security]** *department*, an Employment
76 Security Council, as established and constituted under the Depart-
77 ment of Labor and Industry Act of 1948 (P. L. 1948, c. 446; N. J. S.
78 34:1A-1 et seq.).

79 (f) Employment stabilization. The **[division]** *department*, with
80 the advice and aid of the Employment Security Council shall take
81 all appropriate steps to reduce and prevent unemployment; to
82 encourage and assist in the adoption of practical methods of
83 vocational training, retraining and vocation guidance; to investi-
84 gate, recommend, advise, and assist in the establishment and opera-
85 tion, by municipalities, counties, school districts, and the State, of
86 reserves for public works to be used in times of business depression
87 and unemployment; to promote the re-employment of unemployed
88 workers throughout the State in every other way that may be
89 feasible, and to these ends to carry on and publish the results of
90 investigations and research studies.

91 (g) Records and reports. Each employing unit shall keep true
92 and accurate employment records, containing such information as
93 may be prescribed. Such records shall be open to inspection and be
94 subject to being copied by the director of the division *and the*
95 *controller* or **[his]** *their* authorized representatives at any reason-

96 able time. The **[director]** *department* may require from any em-
 97 ploying unit any sworn or unsworn reports, with respect to persons
 98 employed by it, which are deemed necessary for the effective
 99 administration of this chapter. Under such rules and regulations
 100 as may be adopted by the **[division]** *department* reports relative
 101 to wages and separation from employment may be required from
 102 any employer or employing unit at the time such employer or
 103 employing unit suspends business operations in this State, or from
 104 any employer or employing unit which fails to cooperate in submit-
 105 ting promptly the wage and employment data which may be re-
 106 quired under paragraph (2) of subsection (b) of section 43:21-6 of
 107 this Title. If the nature of such suspension is temporary or in the
 108 nature of a transfer, then **[the director may excuse]** the employer
 109 or employing unit *may be excused* from furnishing such a termina-
 110 tion report upon assurances that proper arrangements have been
 111 made to supply any information which may be required under
 112 paragraph (2) of subsection (b) of section 43:21-6 of this Title.
 113 The **[director]** *department* may**[, in his discretion,]** require from
 114 any employer or employing unit reports relative to wages and
 115 separation in such manner and at such time as **[he]** may **[deem]**
 116 *be* necessary for the effective administration of this chapter.

117 **[Information thus obtained shall not be published or be open to**
 118 public inspection (other than to public employees in the perfor-
 119 mance of their public duties) in any manner revealing the employ-
 120 ing unit's identity**]** *All records, reports and other information ob-*
 121 *tained from employers and employees under this chapter, except to*
 122 *the extent necessary for the proper administration of this chapter,*
 123 *shall be confidential and shall not be published or opened to public*
 124 *inspection other than to public employees in the performance of*
 125 *their public duties, and shall not be subject to subpoena or admissible*
 126 *in evidence in any civil action or proceeding other than one arising*
 127 *under this chapter, but any claimant at a hearing before an appeal*
 128 *tribunal, the division or the board of review, shall be supplied with*
 129 *information from such records to the extent necessary for the*
 130 *proper presentation of his claim. Any officer or employee of the*
 131 **[division]** *department* who violates any provision of this section
 132 shall be liable to a fine of \$200.00, to be recovered in a civil action
 133 in the name of the division, said fine when recovered to be paid to
 134 the unemployment compensation *auxiliary* fund for the use of said
 135 fund.

136 (h) Oaths and witnesses. In the discharge of the duties imposed
 137 by this chapter, *the controller* the **[chairman of an]** appeal tribunal
 138 and any duly authorized representative or member of the division,

139 the director or any deputy director thereof or member of the
140 board of review shall have power to administer oaths and affirma-
141 tions, take depositions, certify to official acts, and issue subpoenas
142 to compel the attendance of witnesses and the production of books,
143 papers, correspondence, memoranda and other records deemed
144 necessary as evidence in connection with a disputed claim or the
145 administration of this chapter. Witnesses subpoenaed pursuant to
146 this section shall in the discretion of the [division] *department* be
147 allowed fees at a rate to be fixed by it. Such fees shall be deemed a
148 part of the expense of administering this chapter.

149 (i) Subpoenas. In case of contumacy by or refusal to obey a
150 subpoena issued to any person, any court of this State within the
151 jurisdiction of which the inquiry is carried on or within the juris-
152 diction of which said person guilty of contumacy or refusal to
153 obey is found or resides or transacts business, upon application by
154 the [division] *department* or its duly authorized representative,
155 or the board of review, shall have jurisdiction to issue to such
156 person an order requiring such person to appear before the board
157 of review or a member thereof, the [division, the director,] *depart-*
158 *ment* or [his] *its* duly authorized representative, there to produce
159 evidence if so ordered or there to give testimony touching the
160 matter under investigation or in question; and any failure to obey
161 such order of the court may be punished by said court as a contempt
162 thereof. Any person who shall without just cause fail or refuse to
163 attend and testify or to answer any lawful inquiry or to produce
164 books, papers, correspondence, memoranda, and other records, if
165 it is in his power so to do, in obedience to a subpoena of the division
166 or of the board of review shall be punished by a fine of not more
167 than \$200.00 or by imprisonment for not longer than 60 days, or
168 by both such fine and imprisonment, and each day such violation
169 continues shall be deemed to be a separate offense.

170 (j) Protection against self-incrimination. No person shall be
171 excused from attending and testifying or from producing books,
172 papers, correspondence, memoranda and other records before the
173 [division] *department* or the board of review or in obedience to
174 the subpoena of a member of the [division] *department* or [the
175 director thereof], the board of review or a member thereof, or any
176 duly authorized representative [of the division] *thereof* in any
177 cause or proceeding before the [division] *department*, the board
178 of review or a member thereof, on the ground that the testimony or
179 evidence, documentary or otherwise, required of him may tend to
180 incriminate him or subject him to a penalty or forfeiture; but no
181 individual shall be prosecuted or subjected to any penalty or

182 forfeiture for or on account of any transaction, matter, or thing
 183 concerning which he is compelled, after having claimed his privilege
 184 against self-incrimination, to testify or produce evidence, docu-
 185 mentary or otherwise, except that such individual so testifying
 186 shall not be exempt from prosecution and punishment for perjury
 187 committed in so testifying.

188 (k) State-Federal cooperation. In the administration of this
 189 chapter the **[division]** *department* shall cooperate to the fullest
 190 extent consistent with the provisions of this chapter, with the
 191 United States Department of Labor to secure to this State and its
 192 citizens all advantages available under the provisions of the Social
 193 Security Act (42 U. S. C. 301 et seq.), as amended, the Federal
 194 Unemployment Tax Act (26 U. S. C. 3301 et seq.), as amended, and
 195 the Wagner-Peyser Act (29 U. S. C. 49 et seq.), as amended; shall
 196 make such reports, in such form and containing such information
 197 as the United States Secretary of Labor may from time to time
 198 require, and shall comply with such provisions as the United States
 199 Secretary of Labor may from time to time find necessary to assure
 200 the correctness and verification of such reports, and shall comply
 201 with the regulations prescribed by the United States Secretary of
 202 Labor governing the expenditure of such sums as may be allotted
 203 and paid to this State under any of such federal acts.

204 Upon request therefor the **[director]** *department* shall furnish
 205 to any agency of the United States charged with the administra-
 206 tion of public works or assistance through public employment, the
 207 name, address, ordinary occupation and employment status of each
 208 recipient of benefits and such recipient's rights to further benefits
 209 under this chapter.

210 The **[division]** *department* may afford reasonable cooperation
 211 with every agency of the United States charged with the admini-
 212 stration of any unemployment insurance law.

213 The **[division]** *department* is authorized to make such investiga-
 214 tions and exercise such of the other powers provided herein with
 215 respect to the administration of this chapter and to transmit such
 216 information and make available such services and facilities to the
 217 agency charged with the administration of any State or federal
 218 unemployment insurance or public employment service law as it
 219 deems necessary or appropriate to facilitate the administration of
 220 such law and to accept and utilize information, services and facili-
 221 ties made available to this State by such agency.

1 9. R. S. 43:21-14 is amended to read as follows:

2 43:21-14. (a) (1) In addition to such reports as **[the Director of**
 3 **the Division of Unemployment and Temporary Disability Insur-**

4 ance] may [require] *be required* under the provisions of sub-
5 section (g) of section 43:21-11 of this chapter (R. S. 43:21-1
6 et seq.), every employer shall file with the [division] *controller*
7 periodical contribution reports on such forms and at such times as
8 the [director] *controller* shall prescribe, to disclose the employer's
9 liability for contributions under the provisions of this chapter
10 (R. S. 43:21-1 et seq.), and at the time of filing each contribution
11 report shall pay the contributions required by this chapter (R. S.
12 43:21-1 et seq.), for the period covered by such report. The
13 [director] *controller* may require that such reports shall be under
14 oath of the employer. Any employer who shall fail to file any report,
15 required by the [director] *controller*, on or before the last day for
16 the filing thereof shall pay a penalty of [\$1.00] \$5.00 for each day
17 of delinquency until and including the [tenth] *fifth* day following
18 such last day and for any period of delinquency after such [tenth]
19 *fifth* day, a penalty of [\$1.00] \$5.00 a day or 20% of the amount
20 of the contributions due and payable by the employer for the period
21 covered by the report, whichever is the lesser; if there be no
22 liability for contributions for the period covered by any contribu-
23 tion report or in the case of any report other than a contribution
24 report, the employer or employing unit shall pay a penalty of
25 [\$1.00] \$5.00 a day for each day of delinquency in filing or [\$15.00]
26 \$25.00, whichever is the lesser; provided, however, that when it is
27 shown to the satisfaction of the [director] *controller* that the
28 failure to file any such report was not the result of fraud or an
29 intentional disregard of this chapter (R. S. 43:21-1 et seq.), or the
30 regulations promulgated hereunder, the [director] *controller*, in
31 his discretion, may remit or abate any unpaid penalties heretofore
32 or hereafter imposed under this section [and he may also, in his
33 discretion, ratify any remission or abatement of penalties hereto-
34 fore allowed by the Unemployment Compensation Commission, its
35 executive director or acting executive director, or the Division of
36 Employment Security, its director or acting director]. On or before
37 October 1 of each year, the [director] *controller* shall submit to
38 the Commissioner of Labor a report covering the 12-month period
39 ending on the preceding June 30, and showing the names and
40 addresses of all employers for whom the [director] *controller*
41 remitted or abated any penalties, or ratified any remission or abate-
42 ment of penalties, and the amount of such penalties with respect to
43 each employer. Any employer who shall fail to pay the contributions
44 due for any period on or before the date they are required by the
45 [division] *controller* to be paid, shall pay interest on the amount
46 thereof from such date until the date of payment thereof at the rate

47 of 1% a month through June 30, 1981 and at the rate of 1¼%
48 a month after June 30, 1981. Upon the written request of any
49 employer or employing unit, filed with the [division] controller on
50 or before the due date of any report or contribution payment, the
51 [director] controller for good cause shown, may grant, in writing,
52 an extension of time for the filing of such report or the paying of
53 such contribution with interest at the applicable rate; provided, no
54 such extension shall exceed 30 days and that no such extension
55 shall postpone payment of any contribution for any period beyond
56 the day preceding the last day for filing tax returns under Title
57 IX of the Federal Social Security Act for the year in which said
58 period occurs.

59 (2) (A) *For the calendar quarter commencing July 1, 1984 and*
60 *each successive quarter thereafter, each employer shall file a report*
61 *with the controller within 30 days after the end of each quarter*
62 *in a form and manner prescribed by the controller listing the name,*
63 *social security number and wages paid to each employee and the*
64 *number of base weeks (as defined in subsection (t) of R. S.*
65 *43:21-19) worked by the employee during the calendar quarter.*

66 (B) *Any employer who fails without reasonable cause to comply*
67 *with the reporting requirements of this paragraph (2) shall be*
68 *liable for a penalty in the following amount for each employee with*
69 *respect to whom the employer is required to file a report but who is*
70 *not included in the report or for whom the required information is*
71 *not accurately reported for each employee required to be included*
72 *whether or not the employee is included:*

73 (i) *For the first failure for one quarter, in any eight con-*
74 *secutive quarters, \$5.00 for each employee;*

75 (ii) *For the second failure for any quarter in any eight*
76 *consecutive quarters, \$10.00 for each employee; and*

77 (iii) *For the third failure for any quarter in any eight con-*
78 *secutive quarters, and for any failure in any eight consecutive*
79 *quarters which failure is subsequent to the third failure, \$25.00*
80 *for each employee.*

81 (C) *Information reported by employers as requested by this*
82 *paragraph (2) shall be used by the Department of Labor for the*
83 *purpose of determining eligibility for benefits of individuals in*
84 *accordance with the provisions of R. S. 43:21-1 et seq. Notwith-*
85 *standing the provisions of subsection (g) of R. S. 43:21-11, the*
86 *Department of Labor is hereby authorized to provide the Depart-*
87 *ment of Human Services with information reported by employers*
88 *as required by this paragraph (2). For each fiscal year, the Director*
89 *of the Division of Budget and Accounting of the Department of the*

90 *Treasury shall charge the appropriate account of the Department*
91 *of Human Services in amounts sufficient to reimburse the Depart-*
92 *ment of Labor for the cost of providing information under this*
93 *subparagraph (C).*

94 (D) *For the purpose of administering the provisions of this*
95 *paragraph (2), all appropriations, files, books, papers, records,*
96 *equipment and other property, and employees currently assigned*
97 *to the Division of Taxation for the implementation of the "Wage*
98 *Reporting Act," P. L. 1980, c. 48 (C. 54:1-55 et seq.) shall be*
99 *transferred to the Department of Labor as of September 1, 1984*
100 *in accordance with the provisions of the "State Agency Transfer*
101 *Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).*

102 (b) The contributions, penalties, and interest due from any
103 employer under the provisions of this chapter (R. S. 43:21-1
104 et seq.), from the time they shall be due; shall be a personal debt
105 of the employer to the State of New Jersey, recoverable in any
106 court of competent jurisdiction in a civil action in the name of
107 the State of New Jersey; provided, however, that except in the
108 event of fraud, no employer shall be liable for contributions or
109 penalties unless contribution reports have been filed or assessments
110 have been made in accordance with subsections (c) or (d) of this
111 section before four years have elapsed from the last day of the
112 calendar year with respect to which any contributions become pay-
113 able under this chapter (R. S. 43:21-1 et seq.), nor shall any em-
114 ployer be required to pay interest on any such contribution unless
115 contribution reports were filed or assessments made within such
116 four-year period; provided further, that if such contribution reports
117 were filed or assessments made within the four-year period, no civil
118 action shall be instituted, nor shall any certificate be issued to the
119 Clerk of the Superior Court under subsection (e) of this section,
120 except in the event of fraud, after six years have elapsed from the
121 last day of the calendar year with respect to which any contribu-
122 tions become payable under this chapter (R. S. 43:21-1 et seq.), or
123 July 1, 1958, whichever is later. Payments received from an em-
124 ployer on account of any debt incurred under the provisions of
125 this chapter (R. S. 43:21-1 et seq.) may be applied by the [divi-
126 sion] *controller* on account of the contribution liability of the
127 employer and then to interest and penalties, and any balance
128 remaining shall be recoverable by the [division] *controller* from
129 the employer. Upon application therefor, the [division] *controller*
130 shall furnish interested persons and entities certificates of indebt-
131 edness covering employers, employing units and others for contri-
132 butions, penalties and interest, for each of which certificate the

133 **[division]** *controller* shall charge and collect a fee of **[\$0.25]** \$2.00
134 per name, no such certificate to be issued, however, for a fee of
135 less than **[\$1.00]** \$10.00. All fees so collected shall be paid into the
136 unemployment compensation administration fund.

137 (c) If any employer shall fail to make any report as required
138 by the rules and regulations of the division pursuant to the pro-
139 visions of this chapter (R. S. 43:21-1 et seq.), the **[division]** *con-*
140 *troller* may make an estimate of the liability of such employer
141 from any information it may obtain, and, according to such estimate
142 so made, assess such employer for the contributions, penalties,
143 and interest due the State from him, give notice of such assess-
144 ment to the employer, and make demand upon him for payment.

145 (d) After a report is filed under the provisions of this chapter
146 (R. S. 43:21-1 et seq.) and the rules and regulations **[of the**
147 **division]** *thereof*, the **[division]** *controller* shall cause the report
148 to be examined and shall make such further audit and investigation
149 as it may deem necessary, and if therefrom there shall be deter-
150 mined that there is a deficiency with respect to the payment of the
151 contributions due from such employer, the **[division]** *controller*
152 shall assess the additional contributions, penalties, and interest due
153 the State from such employer, give notice of such assessment to
154 the employer, and make demand upon him for payment.

155 (e) As an additional remedy, the **[division]** *controller* may issue
156 to the Clerk of the Superior Court of New Jersey a certificate
157 stating the amount of the employer's indebtedness under this
158 chapter (R. S. 43:21-1 et seq.) and describing the liability, and
159 thereupon the clerk shall immediately enter upon his record of
160 docketed judgments such certificate or an abstract thereof and duly
161 index the same. Any such certificate or abstract heretofore or here-
162 after docketed from the time of docketing shall have the same force
163 and effect as a judgment obtained in the Superior Court of New
164 Jersey and the **[division]** *controller* shall have all the remedies
165 and may take all the proceedings for the **[collection]** *collection*
166 thereof which may be had or taken upon the recovery of such a
167 judgment in a civil action upon contract in said court. Such debt,
168 from the time of docketing thereof, shall be a lien on and bind the
169 lands, tenements and hereditaments of the debtor.

170 The Clerk of the Superior Court shall be entitled to receive for
171 docketing such certificate \$0.50, and for a certified transcript of
172 such docket \$0.50. If the amount set forth in said certificate as a
173 debt shall be modified or reversed upon review, as hereinafter
174 provided, the Clerk of the Superior Court shall, when an order
175 of modification or reversal is filed, enter in the margin of the docket

176 opposite the entry of the judgment the word "modified" or "re-
177 versed," as the case may be, and the date of such modification or
178 reversal.

179 The employer, or any other party having an interest in the
180 property upon which the debt is a lien, may deposit the amount
181 claimed in the certificate with the Clerk of the Superior Court of
182 New Jersey, together with an additional 10% of the amount
183 thereof, or \$100.00, whichever amount is the greater, to cover
184 interest and the costs of court, or in lieu of depositing the amount
185 in cash, may give a bond to the State of New Jersey in double the
186 amount claimed in the certificate, and file the same with the Clerk
187 of the Superior Court. Said bond shall have such surety and shall
188 be approved in the manner required by the Rules of the Supreme
189 Court.

190 After the deposit of said money or the filing of said bond, the
191 employer or any other party having an interest in the said prop-
192 erty, may, after exhausting all administrative remedies, secure
193 judicial review of the legality or validity of the indebtedness or the
194 amount thereof, and the said deposit of cash shall be as security
195 for and the bond shall be conditioned to prosecute the judicial
196 review with effect.

197 Upon the deposit of said money or the filing of the said bond
198 with the Clerk of the Superior Court, all proceedings on such judg-
199 ment shall be stayed until the final determination of the cause,
200 and the moneys so deposited shall be subject to the lien of the
201 indebtedness and costs and interest thereon, and the lands, tene-
202 ments, an hereditaments of said debtor shall forthwith be dis-
203 charged from the lien of the State of New Jersey and no execution
204 shall issue against the same by virtue of said judgment.

205 *Notwithstanding the provisions of subsections (a) through (c)*
206 *of this section, the Department of Labor may with the concurrence*
207 *of the State Treasurer, when all reasonable efforts to collect*
208 *amounts owed have been exhausted, or to avoid litigation, reduce*
209 *any liability for contributions, penalties and interest, providing no*
210 *portion of those amounts represents contributions made by an*
211 *employee pursuant to subsection (d) of R. S. 43:21-7.*

212 (f) If not later than two years after the calendar year in which
213 any moneys were erroneously paid to, or collected by the [divi-
214 sion] controller, whether such payments were voluntarily or
215 involuntarily made or made under mistake of law or of fact, an
216 employer, employing unit, or employee who has paid such moneys
217 shall make application for an adjustment thereof, the said moneys
218 shall, upon order of the [director] controller, be either credited or

219 refunded, without interest, from the appropriate fund. For like
 220 cause and within the same period, credit or refund may be so made
 221 on the initiative of the **[director]** *controller*.

222 (g) All interest and penalties collected pursuant to this section
 223 shall be paid into a special fund to be known as the unemployment
 224 compensation auxiliary fund; all moneys in this special fund shall
 225 be deposited, administered and disbursed, in the same manner and
 226 under the same conditions and requirements as is provided by law
 227 for other special funds in the State Treasury, and shall be ex-
 228 pended, under legislative appropriation, for the purpose of aiding
 229 in defraying the cost of the administration of this chapter (R. S.
 230 43:21-1 et seq.) *for the repayment of any interest bearing advances*
 231 *made from the federal unemployment account pursuant to the*
 232 *provisions of section 1202 (b) of the Social Security Act, 42 U. S. C.*
 233 *1322*, and for essential and necessary expenditures in connection
 234 with programs designed to stimulate employment *as determined*
 235 *by the Commissioner of Labor*. The Treasurer of the State shall be
 236 ex officio the treasurer and custodian of this special fund and,
 237 subject to legislative appropriation, shall administer the fund in
 238 accordance with the directions of the **[division]** *controller*. Any
 239 balances in this fund shall not lapse at any time, but shall be con-
 240 tinuously available, subject to legislative appropriation, to the
 241 **[division]** *controller* for expenditure. The State Treasurer shall
 242 give a separate and additional bond conditioned upon the faithful
 243 performance of his duties in connection with the unemployment
 244 compensation auxiliary fund in an amount to be fixed by the divi-
 245 sion, the premiums for such bond to be paid from the moneys in the
 246 said special fund.

1 10. Section 43:21-16 of the Revised Statutes is amended to read
 2 as follows:

3 43:21-16. (a) Whoever makes a false statement or representation
 4 knowing it to be false or knowingly fails to disclose a material fact,
 5 to obtain or increase *or attempts to obtain or increase* any benefit
 6 or other payment under this chapter (R. S. 43:21-1 et seq.), or
 7 under an employment security law of any other State or of the
 8 federal government, either for himself or for any other person,
 9 shall be liable to a fine of \$20.00 for each offense, *or 25% of the*
 10 *amount fraudulently obtained, whichever is greater*, to be recovered
 11 in an action at law in the name of the Division of **[Employment**
 12 **Security]** *Unemployment and Temporary Disability Insurance* of
 13 the Department of Labor **[and Industry]** of the State of New
 14 Jersey or as provided in subsection (e) of section 43:21-14, said
 15 fine when recovered to be paid to the unemployment compensation

16 auxiliary fund for the use of said fund; and each such false state-
17 ment or representation or failure to disclose a material fact shall
18 constitute a separate offense. Any penalties imposed by this sub-
19 section shall be in addition to those otherwise prescribed in this
20 chapter (R. S. 43:21-1 et seq.).

21 (b) (1) An employing unit or any officer or agent of an employing
22 unit or any other person who makes a false statement or repre-
23 sentation knowing it to be false, or who knowingly fails to disclose
24 a material fact, to prevent or reduce the payment of benefits to any
25 individual entitled thereto or to avoid becoming or remaining
26 subject hereto or to avoid or reduce any contribution or other pay-
27 ment required from an employing unit under this chapter (R. S.
28 43:21-1 et seq.), or under an employment security law of any other
29 State or of the federal government, or who willfully fails or
30 refuses to furnish any reports required hereunder (except for such
31 reports as may be required under paragraph 43:21-6(b) [(2)] of
32 this Title) or to produce or permit the inspection or copying of
33 records as required hereunder, shall be liable to a fine of [\$50.00]
34 \$100.00, to be recovered in an action at law in the name of the
35 Division of [Employment Security] *Unemployment and Temporary*
36 *Disability Insurance* of the Department of Labor [and Industry]
37 of the State of New Jersey or as provided in subsection (e) of
38 section 43:21-14, said fine when recovered to be paid to the unem-
39 ployment compensation auxiliary fund for the use of said fund; and
40 each such false statement or representation or failure to disclose a
41 material fact, and each day of such failure or refusal shall con-
42 stitute a separate offense. Any penalties imposed by this paragraph
43 shall be in addition to those otherwise prescribed in this chapter
44 (R. S. 43:21-1 et seq.).

45 Any employing unit or any officer or agent of an employing unit
46 or any other person who fails to submit any report required under
47 paragraph 43:21-6 (b) [(2)] of this Title shall be subject to a
48 penalty of [\$5.00] \$25.00 for [each such] *the first* report not sub-
49 mitted within [seven] 10 days after the mailing of a request for
50 such report, and an additional [\$5.00] \$25.00 penalty may be
51 assessed for [each seven-day] *the next 10-day* period which may
52 elapse after the end of the initial [seven-day] 10-day period and
53 before the report is filed; provided, that when such report or reports
54 are not filed within the prescribed time but it is shown to the
55 satisfaction of the director that the failure was due to a reasonable
56 cause, no such penalty shall be imposed. Any penalties imposed
57 by this paragraph shall be recovered as provided in subsection (e)
58 of section 43:21-14 of this Title; and when recovered shall be paid

59 to the unemployment compensation auxiliary fund for the use of
60 said fund.

61 (c) Any person who shall willfully violate any provision of this
62 chapter (R. S. 43:21-1 et seq.) or any rule or regulation thereunder,
63 the violation of which is made unlawful or the observance of which
64 is required under the terms of this chapter (R. S. 43:21-1 et seq.),
65 and for which a penalty is neither prescribed herein nor provided
66 by any other applicable statute, shall be liable to a fine of \$50.00, to
67 be recovered in an action at law in the name of the Division of
68 **【Employment Security】** *Unemployment and Temporary Disability*
69 *Insurance* of the Department of Labor **【and Industry】** of the State
70 of New Jersey or as provided in subsection (e) of section 43:21-14,
71 said fine when recovered to be paid to the unemployemnt com-
72 pensation auxiliary fund for the use of said fund; and each day
73 such violation continues shall be deemed to be a separate offense.

74 (d) When it is determined by a representative or representatives
75 designated by the Director of the Division of **【Employment Secu-**
76 **rity】** *Unemployment and Temporary Disability Insurance* of the
77 Department of Labor **【and Industry】** of the State of New Jersey
78 that any person, whether (i) by reason of the nondisclosure or
79 misrepresentation by him or by another, of a material fact (whether
80 or not such nondisclosure or misrepresentation was known or
81 fraudulent), or (ii) for any other reason, has received any sum as
82 benefits under this chapter (R. S. 43:21-1 et seq.) while any condi-
83 tions for the receipt of benefits imposed by this chapter (R. S.
84 43:21-1 et seq.) were not fulfilled in his case, or while he was dis-
85 qualified from receiving benefits, or while otherwise not entitled to
86 receive such sum as benefits, such person *unless the director (with*
87 *the concurrence of the controller) directs otherwise by regulation,*
88 *shall be liable【, if the director in his discretion directs recovery,*
89 *either to have such】 to repay those benefits in full. The sum shall be*
90 *deducted from any future benefits payable to 【him】 the individual*
91 *under this chapter (R. S. 43:21-1 et seq.) or 【to repay】 shall be*
92 *paid by the individual to the division for the unemployment com-*
93 *ensation fund, 【a sum equal to the amount so received by him,】*
94 *and such sum shall be collectible in the manner provided 【in sub-*
95 *section (e) of section 43:21-14 of this chapter (R. S. 43:21-1 et seq.)*
96 *for the collection of past-due contributions】 for by law including,*
97 *but not limited to, the filing of a certificate of debt with the Clerk of*
98 *the Superior Court of New Jersey; provided, however, that, except*
99 *in the event of fraud, no person shall be liable for any such refunds*
100 *or deductions against future benefits unless so notified before four*
101 *years have elapsed from the time the benefits in question were paid.*

102 Such person shall be promptly notified of the determination and the
103 reasons therefor. Unless such person, within **five** *seven* calendar
104 days after the delivery of such determination, or within **seven**
105 *10* calendar days after such notification was mailed to his last-known
106 address, files an appeal from such determination, such determination
107 shall be final.

108 (e) Any employing unit or any officer or agent of an employing
109 unit, employer or person failing to remit, when payable, any em-
110 ployer contributions, or worker contributions (if withheld or
111 deducted), or the amount of such worker contributions (if not
112 withheld or deducted), or filing or causing to be filed with *controller*
113 or the Division of **Employment Security** *Unemployment and*
114 *Temporary Disability Insurance* of the Department of Labor **and**
115 **Industry** of the State of New Jersey, any false or fraudulent
116 report or statement, and any person who aids or abets an employing
117 unit, employer, or any person in the preparation or filing of any false
118 or fraudulent report or statement **with the aforesaid division**
119 with intent to defraud **the aforesaid division or** the State of New
120 Jersey or an employment security agency of any other State or of
121 the federal government, or with intent to evade the payment of
122 any contributions, interest or penalties, or any part thereof, which
123 shall be due under the provisions of this chapter (R. S. 43:21-1
124 et seq.), shall be liable for each offense upon conviction before any
125 **County Court, county district court, criminal judicial district**
126 **court, or magistrate's** court of *competent jurisdiction*, to a fine not
127 to exceed \$1,000.00 or by imprisonment for a term not to exceed 90
128 days, or both, at the discretion of the court. The fine upon convic-
129 tion shall be payable to the unemployment compensation auxiliary
130 fund **of the Division of Employment Security of the Department**
131 **of Labor and Industry of the State of New Jersey**. Any penalties
132 imposed by this subsection shall be in addition to those otherwise
133 prescribed in this chapter (R. S. 43:21-1 et seq.).

134 (f) Any employing unit or any officer or agent of an employing
135 unit or any other person who aids and abets any person to obtain
136 any sum of benefits under this chapter to which he is not entitled,
137 or a larger amount as benefits than that to which he is justly en-
138 titled, shall be liable for each offense upon conviction before any
139 **County Court, county district court, criminal judicial district**
140 **court, or magistrate's** court of *competent jurisdiction*, to a fine
141 not to exceed \$1,000.00 or by imprisonment for a term not to exceed
142 90 days or both, at the discretion of the court. The fine upon con-
143 viction shall be payable to the unemployment compensation auxil-
144 iary fund **of the Division of Employment Security of the Depart-**

145 ment of Labor and Industry of New Jersey]. Any penalties im-
 146 posed by this subsection shall be in addition to those otherwise
 147 prescribed in this chapter (R. S. 43:21-1 et seq.).

148 (g) There shall be created in the Division of [Employment
 149 Security] *Unemployment and Temporary Disability Insurance* of
 150 the Department of Labor [and Industry] of the State of New
 151 Jersey an investigating staff for the purpose of investigating
 152 violations referred to in this section and enforcing the provisions
 153 thereof.

1 11. R. S. 43:21-17 is amended to read as follows:

2 43:21-17. (a) In any civil action to enforce the provisions of this
 3 chapter the [commission] *Commissioner of Labor* and the State
 4 may be represented by any qualified attorney who is a regular
 5 salaried employee of the [commission] *Department of Labor* or is
 6 designated by it for this purpose or at the [commission's] *commis-*
 7 *sioner's* request, by the Attorney General.

8 (b) *In any administrative proceeding before the Division of*
 9 *Unemployment and Temporary Disability Insurance of the Depart-*
 10 *ment of Labor, the board of review or the appeal tribunal, the*
 11 *claimant or the employer may appear pro se or employ an attorney*
 12 *or a nonattorney to represent him.*

1 12. 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
 10 or 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 months' 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
42 364 consecutive calendar days beginning with the day on, or as
43 of, which he first files a valid claim for benefits, and thereafter
44 beginning 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 a
48 "valid claim" for the purpose of this subsection if (1) [no remunera-
49 tion was paid or is payable for the day on which, or as of which he
50 files a claim for benefits, and no work is available to him with his
51 current employing unit on such day, or,] he is unemployed for the
52 week in which, or as of which, he files a claim for benefits; and (2)
53 he has fulfilled the conditions imposed by subsection (e) of section
54 43:21-4 of this Title.

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

61 (2) "Controller" means the Office of the Assistant Commissioner
62 for Finance and Controller of the Department of Labor established
63 by the 1982 Reorganization Plan of the Department of Labor.

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

66 "Payments in lieu of contributions" means the money payments
67 to the State Unemployment Compensation Fund by employers
68 electing or required to make payments in lieu of contributions as
69 provided in section 3 or section 4 of **[this act]** *P. L. 1971, c. 346*
70 (C. 43:21-7.2 and 43:21-7.3).

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

93 (h) "Employer" means:

94 (1) Any employing unit which in either the current or the preced-
95 ing calendar year paid remuneration for employment in the amount
96 of \$1,000.00 or more;

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

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

107 (4) Any employing unit which together with one or more other
108 employing units is owned or controlled (by legally **[enforcible]**

109 *enforceable* means or otherwise), directly or indirectly by the same
 110 interests, or which owns or controls one or more other employing
 111 units (by legally **enforceable** *enforceable* means or otherwise), and
 112 which, if treated as a single unit with such other employing unit or
 113 interest, would be an employer under paragraph (1) of this sub-
 114 section;

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

119 (6) Any employing unit for which service in employment as
 120 defined in R. S. 43:21-19 (i) (1) (C) is performed after December
 121 31, 1971 and which in either the current or the preceding calendar
 122 year paid remuneration for employment in the amount of \$1,000.00
 123 or more;

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

134 (8) Deleted by amendment (P. L. 1977, C. 307);

135 (9) Deleted by amendment (P. L. 1977, C. 307);

136 (10) Deleted by amendment (P. L. 1977, C. 307);

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

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

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

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

151 other employing unit which has elected to become fully subject to
152 this chapter (R. S. 43:21-1 et seq.);

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

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

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

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

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

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

182 (i) In the employ of (I) a church or convention or associa-
183 tion of churches, or (II) an organization or school which is
184 operated primarily for religious purposes and which is oper-
185 ated, supervised, controlled or principally supported by a
186 church or convention or association of churches;

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

191 (iii) Prior to January 1, 1978, in the employ of a school
192 which is not an institution of higher education, and after

193 December 31, 1977, in the employ of a governmental entity
194 referred to in section 19 (i) (1) (B) if such service is per-
195 formed by an individual in the exercise of duties

196 (aa) as an elected official;

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

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

201 (dd) as an employee serving on a temporary basis in
202 case of fire, storm, snow, earthquake, flood or similar emer-
203 gency;

204 (ee) in a position which, under or pursuant to the laws
205 of this State, is designated as a major nontenured policy-
206 making or advisory position, or a policymaking or advisory
207 position the performance of the duties of which ordinarily
208 does not require more than eight hours per week; or

209 (iv) By an individual receiving rehabilitation or remunera-
210 tive work in a facility conducted for the purpose of carrying
211 out a program of rehabilitation of individuals whose earning
212 capacity is impaired by age or physical or mental deficiency
213 or injury or providing remunerative work for individuals who
214 because of their impaired physical or mental capacity cannot
215 be readily absorbed in the competitive labor market;

216 (v) By an individual receiving work-relief or work-training
217 as part of an unemployment work-relief or work-training pro-
218 gram assisted in whole or in part by any federal agency or an
219 agency of a State or political subdivision thereof; or

220 (vi) Prior to January 1, 1978, for a hospital in a State
221 prison or other State correctional institution by an inmate of
222 the prison or correction institution and after December 31,
223 1977, by an inmate of a custodial or penal institution.

224 (E) The term "employment" shall include the services of
225 an individual who is a citizen of the United States, performed
226 outside the United States after December 31, 1971 (except in
227 Canada and in the case of the Virgin Islands, after December
228 31, 1971 and prior to January 1 of the year following the year
229 in which the U. S. Secretary of Labor approves the unemploy-
230 ment compensation law of the Virgin Islands under section
231 3304 (a) of the Internal Revenue Code of 1954) in the employ
232 of an American employer (other than the service which is
233 deemed employment under the provisions of paragraphs
234 43:21-19 (i) (2) or (5) or the parallel provisions of another
235 state's Unemployment Compensation Law), if

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

238 (ii) The American employer has no place of business in the
239 United States, but (I) the American employer is an individual
240 who is a resident of this State; or (II) the American employer
241 is a corporation which is organized under the laws of this
242 State; or (III) the American employer is a partnership or
243 trust and the number of partners or trustees who are residents
244 of this State is greater than the number who are residents of
245 any other state; or

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

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

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

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

276 (H) The term "United States" when used in a geographical
277 sense in subsection R. S. 43:21-19 (i) includes the states, the
278 District of Columbia, the commonwealth of Puerto Rico and,

279 effective on the day after the day on which the U. S. Secretary
280 of Labor approves for the first time under section 3304 (a) of
281 the Internal Revenue Code of 1954 an unemployment com-
282 pensation law submitted to the Secretary by the Virgin Islands
283 for such approval, the Virgin Islands.

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

289 (aa) during any calendar quarter in either the current or
290 the preceding calendar year paid remuneration in cash of
291 \$20,000.00 or more to individuals employed in agricultural
292 labor, or

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

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

303 (aa) if such crew leader holds a valid certification of reg-
304 istration under the [Farm Labor Contractor Registration
305 Act of 1963] *migrant and Seasonal Agricultural Worker*
306 *Protection Act, Pub. L. 97-470 (29 U. S. C. § 1801 et seq.; or*
307 *P. L. 1971, c. 192 (C. 34:8A-7 et seq.)*; or substantially all the
308 members of such crew operate or maintain tractors, mecha-
309 nized harvesting or cropdusting equipment, or any other
310 mechanized equipment, which is provided by such crew
311 leader; and

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

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

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

320 (bb) such other entity shall be treated as having paid
321 cash remuneration to such individual in an amount equal to

322 the amount of cash remuneration paid to such individual
323 by the crew leader (either on his own behalf or on behalf
324 of such other entity) for the service in agricultural labor
325 performed for such other entity.

326 (iv) For the purposes of subparagraph (I) (i), the term
327 “crew leader” means an individual who

328 (aa) furnishes ~~individual~~ *individuals* to perform service
329 in agricultural labor for any other entity;

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

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

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

341 (2) The term “employment” shall include an individual’s entire
342 service performed within or both within and without this State if:

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

344 (B) The service is not localized in any state but some of the
345 service is performed in this State, and (i) the base of opera-
346 tions, or, if there is no base of operations, then the place from
347 which such service is directed or controlled, is in this State;
348 or (ii) the base of operations or place from which such service
349 is directed or controlled is not in any state in which some part
350 of the service is performed, but the individual’s residence is
351 in this State.

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

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

365 whom such services are performed files with the division an election
366 that the entire service of such individual shall be deemed to be
367 employment subject to this chapter (R. S. 43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

476 (L) Services performed in the employ of any veterans'
 477 organization chartered by Act of Congress or of any auxiliary
 478 thereof, no part of the net earnings of which organization, or
 479 auxiliary thereof, inures to the benefit of any private share-
 480 holder or individual;

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

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

494 (O) Services performed in the sale or distribution of mer-

495 chandise by home-to-home salespersons or in-the-home
496 demonstrators whose remuneration consists wholly of commis-
497 sions or commissions and bonuses.

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

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

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

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

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

533 (U) Service performed by an individual [under the age of
534 22] who is enrolled at a nonprofit or public educational instita-
535 tion which normally maintains a regular faculty and curricu-
536 lum and normally has a regularly organized body of students
537 in attendance at the place where its educational activities are

538 carried on, as a student in a full-time program, taken for
 539 credit at such institution, which combines academic instruction
 540 with work experience, if such service is an integral part of such
 541 program, and such institution has so certified to the employer,
 542 except that this subparagraph shall not apply to service per-
 543 formed in a program established for or on behalf of an em-
 544 ployer or group of employers;

545 (V) Service performed in the employ of a hospital, if such
 546 service is performed by a patient of the hospital; service
 547 performed as a student nurse in the employ of a hospital or a
 548 nurses' training school by an individual who is enrolled and
 549 regularly attending classes in a nurses' training school
 550 approved under the laws of this State; and service performed
 551 as an intern in the employ of a hospital by an individual who
 552 has compleetd a 4-year course in a medical school approved
 553 pursuant to the law of this State.

554 (W) Services performed after the effective date of this
 555 amendatory act by agents of mutual benefit associations if
 556 the compensation to such agents for such services is wholly on
 557 a commission basis.

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

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

571 (k) **["Fund" means the unemployment compensation fund estab-**
 572 **lished by this chapter (R. S. 43:21-1 et seq.), to which all con-**
 573 **tributions required and from which all benefits provided under this**
 574 **chapter (R. S. 43:21-1 et seq.) shall be paid.]** (*Deleted by amend-*
 575 *ment, P. L., c.*)

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

579 (m) Unemployment.

580 (1) An individual shall be deemed "unemployed" for any week
581 during which he is not engaged in full-time work and with respect
582 to which his remuneration is less than his weekly benefit rate,
583 including any week during which he is on vacation without pay:
584 provided, such vacation is not the result of the individual's volun-
585 tary action, *except that for benefit years commencing on or after*
586 *July 1, 1984, an officer of a corporation, or a person who has more*
587 *than a 5% equitable or debt interest in the corporation, whose claim*
588 *for benefits is based on wages with that corporation shall not be*
589 *deemed to be unemployed in any week during the individual's term*
590 *of office or ownership in the corporation.*

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

596 (3) An individual's week of unemployment shall be deemed to
597 commence only after [his registration at an employment] *the in-*
598 *dividual has filed a claim at an unemployment insurance claims*
599 *office, except as the division may by regulation otherwise prescribe.*

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

604 (o) "Wages" means remuneration paid by employers for em-
605 ployment[; provided, however, that for eligibility and benefit pur-
606 poses wages earned but not paid when the amount thereof has been
607 calculated and is due as determined by the established and custo-
608 mary practices of the employer shall be construed as having been
609 paid when earned]. If a worker receives gratuities regularly in
610 the course of his employment from others than his employer, his
611 "wages" shall also include the gratuities so received if reported in
612 writing to his employer in accordance with regulations of the divi-
613 sion, and if not so reported, his "wages" shall be determined in
614 accordance with the minimum wage rates prescribed under any
615 labor law or regulation of this State or of the United States, or the
616 amount or remuneration actually received by the employee from
617 his employer, whichever is the higher.

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

621 (q) "Week" means [such period or periods of seven consecutive
622 days] *for benefit years commencing on or after October 1, 1984,*

623 *the calendar week ending at midnight Saturday, or as the division*
624 *may by regulation prescribe.*

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

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

633 (t) "Base week" *for a benefit year commencing prior to October*
634 *1, 1984, means any calendar week of an individual's base year*
635 *during which he earned in employment from an employer remunera-*
636 *tion equal to not less than \$30.00. "Base week" for a benefit year*
637 *commencing on or after October 1, 1984 and prior to October 1, 1985*
638 *means any calendar week of an individual's base year during which*
639 *the individual earned in employment from an employer remunera-*
640 *tion equal to not less than 15% of the Statewide average weekly*
641 *remuneration defined in subsection (c) of R. S. 43:21-3 which shall*
642 *be adjusted to the next higher multiple of \$1.00 if not already a*
643 *multiple thereof.*

644 "Base week" *for a benefit year commencing on or after October 1,*
645 *1985 means 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 20% of the Statewide average*
648 *weekly remuneration defined in subsection (c) of R. S. 43:21-3*
649 *which shall be adjusted to the next higher multiple of \$1.00 if not*
650 *already a multiple thereof; provided, if in any calendar week, an*
651 *individual is in employment with more than one employer, he may*
652 *in such calendar week establish a base week with respect to each*
653 *such employer from whom the individual earns remuneration equal*
654 *to not less than **[\$30.00]** the amount defined in this subsection (t)*
655 *during such week.*

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

665 base weeks of employment had been performed in the employ of
666 one employer.

667 **¶**If on application of a claimant it is determined that he has been
668 employed during at least the four weeks immediately preceding his
669 separation from employment by an employer on a substantially
670 reduced schedule of weekly hours due to lack of work, all weeks of
671 substantially reduced schedule within the base period and his wages
672 therefor shall be disregarded in computing his average weekly
673 wage. **¶**For the purpose of computing the average weekly wage, the
674 monetary alternative in subsection (e) of R. S. 43:21-4 shall only
675 apply in those instances where the individual did not have at least
676 20 base weeks in the base year. For benefit years commencing on or
677 after July 1, 1986, "average weekly wage" means the amount derived
678 by dividing an individual's total base year wages by the number of
679 base weeks worked by the individual during the base year; provided,
680 that for the purpose of computing the average weekly wage, the
681 maximum number of base weeks used in the divisor shall be 52.

682 (v) "Initial determination" means, subject to the provisions of
683 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as
684 measured by an eligible individual's base year employment with a
685 single employer covering all periods of employment with that em-
686 ployer during the base year. **¶**Subject **¶**For benefit years com-
687 mencing prior to July 1, 1986, subject to the provisions of R. S.
688 43:21-3 (d) (3) if an individual has been in employment in his base
689 year with more than one employer, no benefits shall be paid to that
690 individual under any successive initial determination until his
691 benefit rights have been exhausted under the next preceding initial
692 determination.

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

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

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

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

706 (B) Which is approved, licensed or issued a permit to oper-
707 ate as a school by the State Department of Education or other

708 government agency that is authorized within the State to
 709 approve, license or issue a permit for the operation of a school;
 710 and

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

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

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

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

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

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

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

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

1 13. Section 16 of P. L. 1948, c. 446 (C. 34:1A-16) is amended to
 2 read as follows:

3 16. There shall be within the **[Division of Employment Security]**
 4 *Department of Labor* an Employment Security Council which shall
 5 consist of **[seven]** *nine* members, not more than **[four]** *five* of
 6 whom shall be of the same political affiliation. **[Two]** *Three* of the
 7 **[seven]** *nine* members of the council shall be persons who by reason
 8 of vocation, employment or affiliations, may fairly be regarded as
 9 representative of employers, **[two]** *three* shall be persons who by
 10 reason of vocation, employment or affiliations, may fairly be re-
 11 garded as representative of employees, and three shall represent
 12 the general public. Each member of the council shall be appointed
 13 by the Governor, with the advice and consent of the Senate, for a
 14 term of four years and shall serve until his successor has been
 15 appointed and has qualified**],** except that the seven persons in office
 16 as members of the Unemployment Compensation Commission on the
 17 effective date of this act shall constitute the first members of the
 18 Employment Security Council and shall continue in office as such

19 for the remainder of the respective terms for which they were
20 appointed as members of the Unemployment Compensation Com-
21 mission】.

22 Each Governor shall designate one of the members of the council
23 *representing the general public* as chairman of such council. Any
24 member of the council so designated shall serve as such chairman at
25 the pleasure of the Governor designating him and until his successor
26 has been designated. The chairman of the council shall be its
27 presiding officer.

28 Any vacancies in the membership of said council occurring other
29 than by expiration of term shall be filled by the Governor, with the
30 advice and consent of the Senate, for the unexpired term only. Any
31 member of the council may be removed from office by the Governor,
32 for cause, upon notice and opportunity to be heard.

33 The members of the council shall serve without compensation but
34 shall be reimbursed for necessary expenses incurred in the per-
35 formance of their duties.

1 14. Section 17 of P. L. 1948, c. 446 (C. 34:1A-17) is amended to
2 read as follows:

3 17. The Employment Security Council shall:

4 (a) Consult and advise with the Commissioner of Labor 【and
5 Industry and the director of the Division of Employment Security】
6 *or his designated representative* with respect to the administration
7 and operation of the unemployment compensation law *and the*
8 *temporary disability benefits law*.

9-10 (b) Review the operation and effect of the unemployment com-
11 pensation law *and the temporary disability benefits law* in 【its】
12 *their* several parts, and to that end hold hearings with respect
13 thereto as it may deem necessary or desirable; and

14 (c) Report to the Governor and the Legislature annually and at
15 such other times as it may deem in the public interest with respect
16 to its findings and conclusions.

17 The commissioner shall, insofar as practicable consult the council
18 on all matters of major policies and procedures involved in or
19 connected with the administration of the unemployment compen-
20 sation law *and the temporary disability benefits law* and he shall
21 inform the council of the action taken in connection with such
22 matters.

23 The council shall have access to all files and records of the
24 division and may require any officer or employee therein to provide
25 such information as it may deem necessary in the performance of
26 its functions.

1 15. Section 1 of P. L. 1980, c. 13 (C. 43:21-5a) is amended to
2 read as follows:

3 1. The amount of benefits payable to an individual for any week
4 which begins in a period with respect to which such individual is
5 receiving a governmental or other pension, retirement or retired
6 pay, annuity, or other similar periodic payment which is based on
7 the previous work of such individual shall be reduced, but not below
8 zero, by an amount equal to the amount of such pension, retirement
9 or retired pay, annuity, or other payment, which is reasonably
10 attributable to such week; provided that, such reduced weekly bene-
11 fit rate shall be computed to the next **[higher]** *lower* multiple of
12 \$1.00 if not already a multiple thereof and that any such reduction
13 in the weekly benefit rate shall reduce the maximum total benefits
14 of the individual during the benefit year; provided further, that, if
15 the provisions of the federal Unemployment Tax Act permit, the
16 Commissioner of Labor **[and Industry]** may prescribe in regula-
17 tions which are consistent with the federal Unemployment Tax
18 Act either or both of the following:

19 a. The requirements of this section shall only apply in the case
20 of a pension, retirement or retired pay, annuity, or other similar
21 periodic payment under a plan maintained or contributed to by a
22 base period or chargeable employer as determined under the
23 chapter to which this act is a supplement;

24 b. The amount of any such reduction shall be determined taking
25 into account contributions made by the individual for the pension,
26 retirement or retired pay, annuity or other similar periodic
27 payment.

1 16. (New section) a. The Unemployment Compensation Interest
2 Repayment Fund is established in the Department of Labor and
3 shall be used solely for the purpose of paying interest due on any
4 advances made from the federal unemployment account under
5 Title XII of the Social Security Act (42 U. S. C. § 1321 et seq.).
6 All moneys deposited in this fund shall be deposited, administered
7 and disbursed in the same manner and under the same conditions
8 and requirements as is provided by law for other special funds in
9 the State Treasury.

10 b. On or before June 30 of each year the Commissioner of Labor
11 shall review the status of any interest bearing advances made from
12 the federal unemployment account to determine the interest amount
13 (if any) to be repaid to the United States Treasury by September
14 30 of that calendar year, pursuant to the provisions of section
15 1202(b) of the Social Security Act, 42 U. S. C. § 1322. If it is
16 determined that interest shall be paid to the United States Treas-

17 sury, the Commissioner of Labor shall first determine whether
18 there are sufficient moneys in the unemployment compensation
19 auxiliary fund, as established in subsection (g) of R. S. 43:21-14,
20 to repay the entire interest amount due on September 30 of that
21 calendar year. If it is determined that there are sufficient moneys
22 in the unemployment compensation auxiliary fund to repay the
23 entire amount, no special assessment on employers shall be made.
24 If, however, it is determined that there are insufficient moneys in
25 the unemployment compensation auxiliary fund to repay the
26 entire interest amount due on September 30 of that calendar year,
27 a special assessment shall be made against all employers, except
28 governmental entities or instrumentalities defined as employers
29 under R. S. 43:21-19 (h)(5) and nonprofit organizations defined
30 as employers under R. S. 43:21-19(h)(6).

31 c. In the event that it shall be necessary to make a special assess-
32 ment, the commissioner shall establish the ratio of the amount of
33 interest determined under subsection b. of this section to 95% of
34 the total employer contributions payable for unemployment insur-
35 ance on taxable wages paid during the preceding calendar year by
36 all employers subject to this interest assessment. This ratio shall
37 be calculated to five significant figures and rounded upward to the
38 next highest ten thousandth. The assessment against each employer
39 shall be in an amount equal to its unemployment contributions
40 payable on the total taxable wages it paid during the preceding
41 calendar year multiplied by the ratio established herein but in no
42 event shall any assessment be less than \$5.00. This special assess-
43 ment shall be mailed by the controller to all affected employers on
44 or before July 31 and shall be due 30 days from that date. This
45 assessment shall be collectible by the controller in the same manner
46 as provided for employer contributions under chapter 21 of Title 43
47 of the Revised Statutes.

48 d. All moneys received by the controller under this special
49 assessment shall be deposited in the Unemployment Compensation
50 Interest Repayment Fund. After all known interest charges have
51 been paid, any remaining moneys in the fund may be transferred
52 to the unemployment compensation auxiliary fund at the discretion
53 of the Commissioner of Labor.

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

3 4. (a) Notwithstanding any other provisions of the Unemploy-
4 ment Compensation Law for the payment of contributions, bene-
5 fits paid to individuals based upon wages earned in the employ
6 of any governmental entity or instrumentality which is an employer

7 defined under R. S. 43:21-19(h)(5) shall, to the extent that such
8 benefits are chargeable to the account of such governmental entity
9 or instrumentality in accordance with the provisions of R. S.
10 43:21-1 et seq., be financed by payments in lieu of contributions.

11 (b) Any governmental entity or instrumentality may, as an
12 alternative to financing benefits by payments in lieu of contribu-
13 tions, elect to pay contributions beginning with the date on which
14 its subjectivity begins by filing written notice of its election with
15 the **[division]** *department* no later than 120 days after such sub-
16 jectivity begins, provided that such election shall be effective for
17 at least two full calendar years; or it may elect to pay contributions
18 for a period of not less than two calendar years beginning Janu-
19 ary 1 of any year if written notice of such election is filed with the
20 **[division]** *department* not later than February 1 of such year;
21 provided, further, that such governmental entity or instrumentality
22 shall remain liable for payments in lieu of contributions with
23 respect to all benefits paid based on base year wages earned in the
24 employ of such entity or instrumentality in the period during which
25 it financed its benefits by payments in lieu of contributions.

26 (c) Any governmental entity or instrumentality may terminate
27 its election to pay contributions as of January 1 of any year by
28 filing written notice **[with the division]** not later than February 1
29 of any year with respect to which termination is to become effective.
30 It may not revert to a contributions method of financing for at
31 least two full calendar years after such termination.

32 (d) Any governmental entity or instrumentality electing the
33 option for contributions financing shall report and pay contribu-
34 tions in accordance with the provisions of R. S. 43:21-7 except
35 that, notwithstanding the provisions of that section, the contribu-
36 tion rate for such governmental entity or instrumentality shall be
37 1% for the entire calendar year 1978 and the contribution rate for
38 any subsequent calendar years shall be the rate established for
39 governmental entities or instrumentalities under subsection (e) of
40 this section.

41 (e) On or before September 1 of each year, the Commissioner of
42 Labor **[and Industry]** shall review the composite benefit cost ex-
43 perience of all governmental entities and instrumentalities electing
44 to pay contributions and, on the basis of that experience, establish
45 the contribution rate for the next following calendar year which
46 can be expected to yield sufficient revenue in combination with
47 worker contributions to equal or exceed the projected costs for
48 that calendar year.

49 (f) Any covered governmental entity or instrumentality electing
50 to pay contributions shall each year appropriate, out of its general
51 funds, moneys to pay the projected costs of benefits at the rate
52 determined under subsection (e) of this section. These funds shall
53 be held in a trust fund maintained by the governmental entity for
54 this purpose. Any surplus remaining in this trust fund may be
55 retained in reserve for payment of benefit costs for subsequent
56 years either by contributions or payments in lieu of contributions.

57 (g) Any governmental entity or instrumentality electing to
58 finance benefit costs with payments in lieu of contributions shall
59 pay into the fund an amount equal to all benefit costs for which
60 it is liable pursuant to the provisions of the Unemployment Com-
61 pensation Law. Each subject governmental entity or instrumen-
62 tality shall require payments from its workers in the same manner
63 and amount as prescribed under R. S. 43:21-7(d) for governmental
64 entities and instrumentalities financing their benefit costs with
65 contributions. No such payment shall be used for a purpose other
66 than to meet the benefits liability of such governmental entity or
67 instrumentality. In addition, each subject governmental entity or
68 instrumentality shall appropriate out of its general funds sufficient
69 moneys which, in addition to any worker payments it requires, are
70 necessary to pay its annual benefit costs estimated on the basis of
71 its past benefit cost experience; provided, that for its first year
72 of coverage, its benefit costs shall be deemed to require an appro-
73 priation equal to 1% of the projected total of its taxable wages
74 for the year. These appropriated moneys and worker payments
75 shall be held in a trust fund maintained by the governmental en-
76 tity or instrumentality for this purpose. Any surplus remaining
77 in this trust fund shall be retained in reserve for payment of benefit
78 costs in subsequent years. If a governmental entity or instru-
79 mentality requires its workers to make payments as authorized
80 herein, such workers shall not be subject to the contributions re-
81 quired in R. S. 43:21-7(d).

82 (h) *Notwithstanding the provisions of the above subsection (g),*
83 *commencing July 1, 1986 worker contributions to the unemployment*
84 *trust fund with respect to wages paid by any governmental entity*
85 *or instrumentality electing or required to make payments in lieu of*
86 *contributions, including the State of New Jersey, shall be made in*
87 *accordance with the provisions of R. S. 43:21-7(d)(1)(C) and, in*
88 *addition, each governmental entity or instrumentality electing or*
89 *required to make payments in lieu of contributions shall require*
90 *payments from its workers at the rate of 0.50% of wages paid,*

91. *which amounts are to be held in the trust fund maintained by the*
92. *governmental entity or instrumentality for payment of benefit*
93. *costs.*

1 18. Section 23 of P. L. 1948, c. 110 (C. 43:21-47) is amended
2 to read as follows:

3 23. Withdrawal from Federal Treasury.

4 (a) The State Treasurer is hereby authorized and directed to
5 requisition and withdraw on or before December 31, 1948, the sum
6 of \$50,000,000.00 from the amount of worker contributions hereto-
7 fore accumulated in the State unemployment compensation fund
8 and deposited in and credited to the account of this State in the
9 unemployment trust fund of the United States of America,
10 established and maintained pursuant to section 904 of the Social
11 Security Act, as amended (U. S. Code Title 42, Section 1104), and
12 to deposit such sums in the State disability benefits fund, estab-
13 lished under the Temporary Disability Benefits Law. The State
14 Treasurer is further authorized and empowered to make such
15 requisitions or withdrawals in accordance with such regulations
16 relating thereto as may be prescribed by the United States Secre-
17 tary of the Treasury. No portion of the amount requisitioned or
18 withdrawn from the Federal Treasury shall be expended for the
19 purpose of administering the Temporary Disability Benefits Law.

20 (b) The State Treasurer is hereby authorized and directed to
21 requisition and withdraw within 90 days of this enactment, an
22 additional sum of \$50,000,000.00 from the amount of worker con-
23 tributions heretofore accumulated in the State unemployment com-
24 pensation fund and deposited in and credited to the account of this
25 State in the unemployment trust fund of the United States of
26 America, established and maintained pursuant to section 904 of the
27 Social Security Act, as amended (U. S. Code Title 42, Section 1104)
28 and to deposit such sums in the State disability benefits fund,
29 established under the Temporary Disability Benefits Law. The
30 State Treasurer is further authorized and empowered to make such
31 requisitions or withdrawals in accordance with such regulations
32 relating thereto as may be prescribed by the United States Secre-
33 tary of the Treasury. If the balance in the State disability benefits
34 fund as of December 31 of any calendar year, increased by the
35 contributions credited thereto on or before, or as of January 31 im-
36 mediately thereafter is in excess of \$75,000,000.00, the excess shall
37 be withdrawn from the State disability benefits fund and deposited
38 to the account of this State in the unemployment trust fund until
39 the entire \$50,000,000.00 requisitioned and withdrawn under this
40 subsection (b) has been returned and deposited to the account of

41 this State in the unemployment trust fund pursuant to the provi-
 42 sions of this subsection (b) and subsection (c) hereof. Such repay-
 43 ment to the unemployment trust fund shall be considered in
 44 determining contribution rates by employers to the State disability
 45 benefits fund under R. S. 43:21-7(c). No portion of the amount
 46 requisitioned or withdrawn from the Federal Treasury shall be ex-
 47 pended for the purpose of administering the Temporary Disability
 48 Benefits Law.

49 (c) The State Treasurer shall transfer from the State disability
 50 benefits fund to the clearing account of the unemployment com-
 51 pensation fund as established under R. S. 43:21-9, the sum of
 52 \$25,000,000.00. Such transfer may be made at such times and in
 53 such installments as the State Treasurer may deem proper, except
 54 that the total sum shall have been transferred by no later than
 55 April 30, 1971. Amounts transferred to the clearing account of the
 56 unemployment compensation fund under this subsection shall be
 57 clear immediately and shall be deposited with the Secretary of
 58 the Treasury of the United States of America in accordance with
 59 the provisions of R. S. 43:21-9(b).

60 (d) *The State Treasurer is hereby authorized and directed to*
 61 *requisition and withdraw on or before December 31, 1985 a mini-*
 62 *imum of \$50,000,000.00, at the discretion of the Commissioner of*
 63 *Labor, from the State disability benefits fund established under*
 64 *section 22 of P. L. 1948, c. 110 (C. 43:21-46) and to deposit such*
 65 *sum in the clearing account of the State unemployment compensa-*
 66 *tion fund established under R. S. 43:21-9. The amount transferred*
 67 *under this subsection (d) shall be cleared immediately and shall*
 68 *be deposited with the Secretary of the Treasury of the United*
 69 *States of America in accordance with the provisions of R. S.*
 70 *43:21-9(b).*

1 19. Section 16 of P. L. 1948, c. 110 (C. 43:21-40), is amended
 2 to read as follows:

3 16. With respect to periods of disability commencing on or after
 4 July 1, 1961, an individual's weekly benefit amount shall be deter-
 5 mined and computed by the division on the same basis as the weekly
 6 benefit rate is determined and computed pursuant to section
 7 43:21-3 (c) of the Revised Statutes *except that for periods of*
 8 *disability commencing on or after October 1, 1984, an individual's*
 9 *weekly benefit rate shall be two-thirds of his average weekly wage,*
 10 *subject to a maximum of 50% of the Statewide average weekly*
 11 *remuneration paid to workers by employers subject to this chapter*
 12 *(R. S. 43:21-1 et seq.), as determined and promulgated by the*
 13 *Commissioner of Labor provided, however that such individual's*

14 *benefit rate shall be computed to the next higher multiple of \$1.00*
15 *if not already a multiple thereof.* The amount of benefits for each
16 day of disability for which benefits are payable shall be one-seventh
17 of the corresponding weekly benefit amount; provided, that the
18 total benefits for a fractional part of a week shall be computed to
19 the next higher multiple of \$1.00 if not already a multiple thereof.

1 *20. (New section) *The Department of Labor, under the direction*
2 *of the Governor's Commission on Unemployment Insurance created*
3 *by Executive Order No. 45 of 1983, shall review the "Temporary*
4 *Disability Benefits Law," P. L. 1948, c. 110 (C. 43:21-25 et seq.), to*
5 *conform the benefit levels and eligibility criteria of that law to those*
6 *in the "unemployment compensation law," R. S. 43:21-1 et seq., and*
7 *shall report their findings to the Labor, Industry and Professions*
8 *Committee of the Senate and the Labor Committee of the General*
9 *Assembly within 30 days of the effective date of this section.**

1 *~~20.~~* *21.* Section 1 of P. L. 1940, c. 193 (C. 43:21-5.1) is
2 repealed.

1 *~~21.~~* *22.* This act shall take effect on October 1, 1984, except
2 that the amendment to R. S. 43:21-6 by the addition of subsection
3 (i) concerning student disqualifications contained in section 3 of this
4 act, the amendment to subparagraph (c) (5) (A) of R. S. 43:21-7
5 concerning employer contribution rates contained in section 5 of
6 this act, and the amendment to subsection (m) of R. S. 43:21-19
7 concerning corporate officers contained in section 12 of this act
8 shall take effect on July 1, 1984 **and section 20 of this act shall take*
9 *effect immediately.**

14 *benefit rate shall be computed to the next higher multiple of \$1.00*
 15 *if not already a multiple thereof.* The amount of benefits for each
 16 day of disability for which benefits are payable shall be one-seventh
 17 of the corresponding weekly benefit amount; provided, that the
 18 total benefits for a fractional part of a week shall be computed to
 19 the next higher multiple of \$1.00 if not already a multiple thereof.

1 20. Section 1 of P. L. 1940, c. 193 (C. 43:21-5.1) is repealed.

2 21. This act shall take effect on October 1, 1984, except that the
 3 amendment to R. S. 43:21-6 by the addition of subsection (i) con-
 4 cerning student disqualifications contained in section 3 of this act,
 5 the amendment to subparagraph (c) (5) (A) of R. S. 43:21-7
 6 concerning employer contribution rates contained in section 5 of
 7 this act, and the amendment to subsection (m) of R. S. 43:21-19
 8 concerning corporate officers contained in section 12 of this act
 9 shall take effect on July 1, 1984.

SPONSORS' STATEMENT

This bill makes major changes to the Unemployment Compensation Law in the areas of benefits, eligibility, disqualifications, benefit financing, penalties and fines.

The bill changes the percentage which determines the weekly benefit unemployed workers receive. Under current law the individual receives 66 $\frac{2}{3}$ % of his average weekly wage subject to a maximum of 50% of the Statewide average weekly wage. Under this bill, a worker would receive 60% of his average weekly wage subject to a maximum of 66 $\frac{2}{3}$ % of the Statewide average weekly wage. Dependency benefits would also be paid (provided the individual's spouse is unemployed) at the rate of 7% of the weekly benefit rate and 4% each for the next two dependents. The maximum rate payable in 1984 would increase from \$170 to \$192.

The bill also amends the benefit formula to provide that the amount computed will be rounded to the next lower multiple of a dollar.

Amendments are also included to increase the base week qualifying amount from \$30 (in effect since 1975) to 15% of the Statewide average weekly wage in 1984, and to 20% of the average weekly wage beginning in 1985. Similarly, the current alternative earnings requirement (which has been statutorily fixed since 1975) of \$2200 will be indexed each year at 12 times the average weekly wage.

The bill makes significant changes to the various disqualification provisions contained in the law.

S 1322 (1984)

The current disqualification for leaving work without good cause attributable to the work requires an individual to earn four times his weekly benefit rate in subsequent employment. This bill will require the individual to work at least four weeks and earn six times his weekly benefit rate. The bill also provides that an individual who is suspended or discharged for a criminal act will be disqualified and lose all benefit rights accruing with the employer. Additionally, the disqualification for illegal receipt of benefits as a result of fraudulent misrepresentation will be increased from 17 weeks to one year. The penalty amount for fraudulent activity will be increased from \$20 for each week to 25% of the amount illegally obtained. The bill disqualifies full-time students from benefits.

Included in the bill are amendments affecting worker and employer contributions. Between July 1, 1984 and June 30, 1986, a surtax of 10% will be imposed on all contributory employers for the purpose of repaying the outstanding \$422 million loan currently owed to the federal government. In 1985, \$50 million will be transferred from the State disability benefit fund to the unemployment trust fund to be used to repay the loan. In 1986, a new tax schedule will go into effect which will increase the maximum rate payable by deficit account employers from 6.2% to 7.0%. A solvency tax of 10% will be imposed in any year that the fund is in a deficit position. The tax schedule has also been amended to comply with federal law (Tax Equity and Fiscal Responsibility Act of 1982), which mandates all states to have a standard rate no lower than 5.4%. The bill also increases the penalties for employers who fail to submit timely wage and contribution reports to the Department of Labor.

In 1986, the worker tax for unemployment insurance will be increased from 0.5% to 0.625%. An interest repayment fund is established for the purpose of repaying any interest which may be owed to the federal government on any future advances.

The bill permits the claimant and the employer to represent themselves or to employ an attorney or non-attorney in administrative proceedings before the Division of Unemployment and Temporary Disability Insurance.

The bill also increases the size of the Employment Security Council to nine members and expands its mission to include the review of the Temporary Disability Benefits Law.

The bill redefines a week of unemployment to be a calendar week ending at midnight Saturday and excludes from the defini-

tion of unemployment officers and owners of corporations involved in seasonal businesses.

Effective in 1986, the bill changes New Jersey's Unemployment insurance system from a wage request to a wage record system. Quarterly wage reports for all workers will be used as the basis for benefit determinations. The Department of Labor will assume the responsibility of collecting quarterly wage reports from the Division of Taxation on September 1, 1984.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1322

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 1984

This bill makes major changes to the Unemployment Compensation Law in the areas of benefits, eligibility, disqualifications, benefit financing, penalties and fines.

The bill changes the percentage which determines the weekly benefit unemployed workers receive. Under current law the individual receives $66\frac{2}{3}\%$ of his average weekly wage subject to a maximum of 50% of the Statewide average weekly wage. Under this bill, a worker would receive 60% of his average weekly wage subject to a maximum of $56\frac{2}{3}\%$ of the Statewide average weekly wage. Dependency benefits would also be paid, provided the individual's spouse is unemployed, at the rate of 7% of the weekly rate for the first dependent and 4% each for the next two dependents, subject to the maximum rate payable. The maximum rate payable in 1984 would increase from \$170.00 to \$192.00.

The bill also amends the benefit formula to provide that the amount computed will be rounded to the next lower multiple of a dollar.

Amendments are also included to increase the base week qualifying amount from \$30.00 (for 20 base weeks) to 15% of the Statewide average weekly wage in 1984, and to 20% of the Statewide average weekly wage beginning in 1985. Similarly, the current alternative earnings requirement of \$2,200.00 will be indexed each year at 12 times the Statewide average weekly wage. If effective in 1984, this amount would be \$4,100.00.

The bill provides that, for benefit years commencing on or after July 1, 1986, each base period employer will be charged an appropriate portion of the benefits based on the total wages paid the claimant by that employer. Currently, benefits are charged to employers in inverse order in which they employed the claimant, i.e., the most recent being charged first.

The bill makes significant changes to the various disqualification provisions contained in the law. The current disqualification for leaving work without good cause attributable to the work requires an individual to earn four times his weekly benefit rate in subsequent em-

ployment. This bill will require the individual to work at least four weeks and earn six times his weekly benefit rate. The bill also provides that an individual who is discharged for a criminal act will be disqualified and lose all benefit rights accruing with that discharging employer. Additionally, the disqualification for illegal receipt of benefits as a result of fraudulent misrepresentation will be increased from 17 weeks to one year. The penalty amount for fraudulent activity will be increased from \$20.00 for each week to 25% of the amount illegally obtained. The bill also disqualifies full-time students from benefits, unless they earn sufficient wages while attending school to qualify for benefits or are in certain job training programs.

Included in the bill are amendments affecting worker and employer contributions. Between July 1, 1984 and June 30, 1986, a surtax of 10% will be imposed on all contributory employers for the purpose of repaying the outstanding \$422 million loan currently owed to the federal government. In 1985, \$50 million will be transferred from the State disability benefit fund to the unemployment trust fund to be used to repay the loan. In 1986, a new tax schedule will go into effect which will increase the maximum rate payable by deficit account employers from 6.2% to 7.0%. A solvency tax of 10% will be imposed in any year that the fund is in a deficit position. The schedule has also been amended to comply with federal law, the Tax Equity and Fiscal Responsibility Act of 1982, which mandates all states to have a standard rate no lower than 5.4%. The bill also increases the penalties for employers who fail to submit timely wage and contribution reports to the Department of Labor.

In 1986, the worker tax for unemployment insurance will be increased from 0.5% to 0.625%.

An interest repayment fund is established for the purpose of repaying any interest which may be owed to the federal government on any future advances.

The bill permits the claimant and the employer to represent themselves or to employ an attorney or nonattorney in administrative proceedings before the Division of Unemployment and Temporary Disability Insurance.

The bill also increases the size of the Employment Security Council to nine members and expands its mission to include the review of the Temporary Disability Benefits Law.

The bill redefines a week of unemployment to be a calendar week ending at midnight Saturday and a base year to be the first four of the last five computed calendar quarters. It excludes from the definition of unemployment officers and owners of a corporation who have more than a 5% equity or debit interest in that corporation.

Effective in 1986, the bill changes New Jersey's unemployment insurance system from a wage request to a wage record system. Quarterly wage reports for all workers will be used as the basis for benefit determinations. The Department of Labor will assume the responsibility of collecting quarterly wage reports from the Division of Taxation on September 1, 1984.

The committee added a new section to the bill requiring the Department of Labor, under the direction of the Governor's Commission on Unemployment Insurance, to review the Temporary Disability Benefits Law to conform the benefit levels and eligibility criteria of that law to those in the unemployment compensation law and to report its findings to the Senate Labor, Industry and Professions Committee and the Assembly Labor Committee within 30 days.

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FOR IMMEDIATE RELEASE

MAR 26 1984

Contact: Gene Herman
(609) 292-7832

Monday, March 26, 1984

185 W. State Street
Trenton, N. J.

Governor Thomas H. Kean today signed into law S-1322 and S-1323, bills which will reform New Jersey's debt-ridden unemployment insurance system and return it to solvency within two years.

The Governor signed the legislation at a ceremony attended by representatives of business and labor organizations, and members of the State Legislature in the State Assembly Chamber.

The legislation, which was approved by the Senate on March 1 and passed in the Assembly on March 15, incorporates a two-year plan for eliminating the unemployment insurance system's \$422 million debt to the federal government. It also provides for changes in eligibility and benefit formulas and employer tax tables, and stronger penalties for claimant fraud.

"The journey was a long and difficult one, but we finally reached our goal of reforming our state's unemployment system into one that is fair to both New Jersey workers and employers," Kean said. "This task has been a priority of my administration since the day we took office and were faced with a \$612 million debt to the federal government.

"Thanks to this legislation, we will be able to retire our debt to the federal government in two years and eliminate the aggregate \$100 million in additional federal unemployment taxes borne each year by our state's employers because of that debt," Kean added.

The Governor expressed appreciation to the State Legislature for its expeditious action in approving the reform legislation.

(more)

The Governor also thanked Labor Commissioner Roger A. Bodman and the members of the Governor's Commission on Unemployment Insurance. The Commission members were former Labor Commissioner Joseph A. Hoffman; Bruce G. Coe, President of the New Jersey Business and Industry Association; Charles H. Marciante, President of the New Jersey State AFL-CIO; Frederick A. Westphal, President of the New Jersey State Chamber of Commerce; and Archer Cole, President of District Three, International Union of Electrical Workers, AFL-CIO.

The legislation that the Governor signed was drawn directly from recommendations of the Governor's Commission on Unemployment Insurance, which was appointed by Governor Kean on September 8, 1983.

"I would be remiss if I did not express my sincere appreciation to the members of the Governor's Commission who worked untiringly and diligently for five months on this important issue," the Governor said. "Because they were able to willingly put their own interests aside and reach a workable compromise, every citizen of our state will benefit."

Commissioner Bodman also thanked the members of the Legislature for their quick action on the unemployment insurance bills, and the members of the Governor's Commission on Unemployment Insurance.

"I join Governor Kean in saluting the members of the Governor's Commission," Bodman said. "Without their hard work and dedication to the cause, we would not be here today. Compromise between these distinguished members of our state's business and labor communities was the key element in the passage of this legislation."

"It is an ambitious proposal," Bodman continued, "but a workable one which falls within our financial expectations."

Bodman also pointed out that under the new legislation, New Jersey's unemployment insurance operations will be streamlined by changing the state from a "wage request" state to a "wage reporting" state.

"This new system will enable us to calculate a claimant's benefits from the latest wage information supplied by employers to the Department of Labor on a quarterly basis," he said. "It will enable us to eliminate our present system which has proven to be error-prone and time consuming, and a burden on employers.

"All in all we can now proudly state that New Jersey has an unemployment insurance system that reflects the realities of today's economy and the earning power and needs of today's workers," Bodman said.

"Equally important," he continued, "this legislation will eventually lift a tax burden off our existing employers, and create an atmosphere which will encourage the influx of new business and industry."

(30)